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CHARITABLE CONTRIBUTIONS AND MINISTERS' AND MILITARY HOUSING DEDUCTIONS

HEARING

BEFORE THE

SUBCOMMITTEE ON
TAXATION AND DEBT MANAGEMENT

OF THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

SECOND SESSION

ON

S. 377 and S. 2017

SEPTEMBER 26, 1984

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CHARITABLE CONTRIBUTIONS AND MINISTERS' AND MILITARY HOUSING DEDUCTIONS

WEDNESDAY, SEPTEMBER 26, 1984

House of Representatives,
Subcommittee on Taxation and Debt Management,
Committee on Finance,
Washington, DC.

The committee met, pursuant to notice, at 9:30 a.m., in room SD-215, Dirksen Senate Office Building, Hon. Bob Packwood (chairman) presiding.

Present: Senators Packwood, Long, Moynihan and Bradley.

[The press release announcing the hearing, the opening statement of Senator Bob Dole, a description of S. 377 and S. 2017 by the Joint Committee on Taxation and the text of the bills S. 377 and S. 2017, follow:]

[Press Release No. 84-174]

Finance Subcommittee Sets Hearing on Charitable Contributions and Ministers' and Military Housing Deductions

Senator Bob Packwood, Chairman of the Subcommittee on Taxation and Debt Management of the Committee on Finance, announced today that a hearing will be held on the issues of charitable contributions and ministers' and military housing deductions.

The hearing will be held on Wednesday, September 26, 1984, at 9:30 a.m. in Room SD-215 of the Dirksen Senate Office Building.

S. 337.—Introduced by Senator Packwood. S. 337 would make permanent the deduction for charitable contributions by non-itemizers.

S. 2017.—Introduced by Senator Helms. S. 2017 would amend the Internal Revenue Code of 1954 with respect to deductions for the payment of certain expenses by ministers and members of the uniformed services who receive subsistence and housing allowances.

Statement of Senator Dole

Mr. Chairman, thank you ~~for~~ holding this hearing on the important issues of charitable contribution deductions for non-itemizers and mortgage interest deductions and property tax deductions for ministers and members of the uniform services who receive tax-exempt housing allowances.

Since early 1983 when the Internal Revenue Service issued revenue ruling 83-3 concerning the disallowance of a mortgage interest deduction and property tax deduction for ministers for the portion of mortgage interest and property taxes attributable to tax-exempt parsonage allowance income, many ministers and others have been concerned about the economic impact and equity of losing these deductions. In the Deficit Reduction Act of 1984 we gave extended transitional relief to ministers so that we would have an opportunity to hold these hearings and take a look at this issue.

Although revenue ruling 83-3 did not specifically apply to the basic quarters allowance and other subsistence payments of members of the uniform services, the principles similar to those contained in revenue ruling 83-3 may indeed result in a loss of the mortgage interest deduction and the property tax deduction for members of the uniform services. The Senate provision in the Deficit Reduction Act of 1984 would have given transitional relief to members of the uniform services but was dropped by the House conferees because revenue ruling 83-3 did not specifically apply to members of the armed services.

As with many of the income tax exclusions in the Internal Revenue Code, Congress did not specifically address the question of deductions for expenditures made from tax-exempt income. From a budgetary point of view, the cost impact to the Federal Government must be analyzed. However, from a tax equity and fairness standpoint we must also be concerned about treating similarly situated taxpayers the same.

The issues raised here with respect to ministers and members of the Armed Forces also affect other similarly situated taxpayers. For instance, revenue ruling 83-3 also dealt with the case of a veteran deducting educational expenses if the amount expended is allocable to veterans benefits that are exempt from taxation, and a student deducting educational expenses if the amounts expended are allocable to a scholarship that is excluded from gross income. There are also other expenditures which can be paid with tax-exempt income and give rise to a deduction for those expenditures. All of these taxpayers have very similar cases and I hope today's witnesses will comment on the tax equity and fairness questions.

Today's hearing will also focus on S. 337, which would make the charitable contribution deduction for non-itemizers permanent. It is currently due to expire at the end of 1986. It is important to receive information on the impact of this provision with sufficient time prior to sunset to determine whether it should be made permanent.

Mr. Chairman, again thank you for holding today's hearing and I look forward to working with you, the Treasury Department, Senator Helms and Senator Warner on these important issues.

DESCRIPTION OF S. 337 (RELATING TO CHARITABLE DEDUCTIONS BY NONITEMIZERS) AND S. 2017 (RELATING TO DEDUCTION FOR HOUSING EXPENSES OF MINISTERS AND MEMBERS OF THE UNIFORMED SERVICES)

Scheduled for a Hearing

before the

SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT

of the

COMMITTEE ON FINANCE

ON SEPTEMBER 26, 1984

Prepared by the Staff

of the

JOINT COMMITTEE ON TAXATION

INTRODUCTION

The Subcommittee on Taxation and Debt Management of the Senate Committee on Finance has scheduled a public hearing on September 26, 1984, on S. 337 (introduced by Senators Packwood, Moynihan, Durenberger, Heinz, and others) and S. 2017 (introduced by Senators Helms, Jepsen, Exon, Cochran, Zorinsky, and Johnston). S. 337 would make permanent the charitable deduction for nonitemizers. S. 2017 would permanently exempt tax-free housing and subsistence allowances received by ministers or members of the uniformed services from the rule which disallows deductions for expenses allocable to exempt income.

This pamphlet, prepared in connection with the hearing, has two parts. The first part is a summary. The second part provides a description of the bills, including present law, issues raised by the bills, a description of the bills, and effective dates.

I. SUMMARY

S. 337—Senators Packwood, Moynihan, Durenberger, Heinz, and Others

Permanent Extension of Charitable Contributions Deduction for Nonitemizers

Present law allows a deduction for charitable contributions for both taxpayers who do and who do not itemize deductions on their Federal income tax return. The deduction for nonitemizers was added by the Economic Recovery Tax Act of 1981 and is subject to a phase-in over the years 1982-1986. The charitable contributions deduction for nonitemizers is scheduled to terminate on December 31, 1986.

The bill would make permanent the charitable contributions deduction for nonitemizers.

S. 2017—Senators Helms, Jepsen, Exon, Cochran, Zorinsky, and Johnston

Deduction for Mortgage Interest and Taxes Allocable to Tax-free Allowances Paid to Ministers and Members of the Uniformed Services

Present law (Code sec. 265(1)) disallows a deduction for otherwise deductible amounts which are allocable to tax-exempt income. A 1983 IRS revenue ruling held that ministers are prevented by this rule from taking deductions for mortgage interest and real estate taxes on a residence to the extent such expenditures are allocable to tax-free housing allowances received by the ministers. A special transitional rule delayed application of this provision until January 1, 1985, for ministers who owned and occupied a home (or had contracted to purchase a home) before January 3, 1983. Under the Tax Reform Act of 1984, this transitional rule was extended until January 1, 1986. Neither the IRS ruling nor the 1984 Act referred to members of the uniformed services who receive tax-free housing and subsistence allowances; however, the IRS has indicated that it is studying application of the law to these cases.

The bill would permanently exempt tax-free housing and subsistence allowances received by ministers or members of the uniformed services from the disallowance rule.

II. DESCRIPTION OF THE BILLS

1. S. 337 — Senators Packwood, Moynihan, Durenberger, Heinz, and Others

Permanent Extension of Charitable Contributions Deduction for Nonitemizers

Present Law

Charitable contributions generally

Subject to certain limitations, present law (Code sec. 170) provides an income tax deduction for contributions of money or property to or for the benefit of charitable organizations, the United States, and States or local governments. For contributions of capital gain property, the deduction generally is equal to the fair market value of the property on the date of the contribution. Charitable contribution deductions are also provided for estate and gift tax purposes.

Under present law, contributions of cash and ordinary-income property by an individual to public charities or private operating foundations are deductible up to 50 percent of the donor's contribution base for the year (equal to adjusted gross income with certain modifications). Contributions in excess of this limitation, or of a 30-percent limitation applicable to gifts by individuals of capital-gain property to such charities, may be carried forward and deducted over the following five years, subject to the applicable percentage limitations in those years.[1]

The Tax Reform Act of 1984 (P.L. 98-369) tightened the substantiation requirements applicable to charitable contributions of property and increased the penalty for incorrect valuation of donated property. As part of these changes, deductions for single items of donated property exceeding $5,000 in claimed value ($10,000 in the case of stock) are to be disallowed, under regulations issued before January 1, 1985, unless the taxpayer attaches a summary of an independent appraisal of the donated property to his or her return.

Charitable deduction by nonitemizers

Prior to the Economic Recovery Tax Act of 1981 (P.L. 93-34), a deduction for charitable contributions could be claimed by an individual taxpayer only as an itemized deduction from adjusted gross income on the taxpayer's return.

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[1] The Tax Reform Act of 1984 (P.L. 98-369) made various changes in the rules regarding contributions to private nonoperating (i.e., grantmaking) foundations. Under the 1984 Act, deductions for contributions of cash or ordinary income property to private nonoperating (i.e., grantmaking) foundations are limited to 30 percent of the donor's contribution base. Special limitations also apply to contributions of capital gain property to such foundations.

The 1981 Act provided a deduction for charitable contributions made by individual taxpayers who do not itemize deductions on their income tax returns, to be phased in over a five-year period and then terminated after 1986 (Code sec. 170(i)). Under the phase-in, for taxable years beginning in 1982-84, the amount of contributions which nonitemizers were allowed to take into account was subject to a dollar cap; in addition, for the years 1982-1985, only a percentage of the amount of contributions otherwise deductible was to be allowed as a deduction for nonitemizers. These percentages and dollar caps are shown in the following table:

Year	Percentage	Contribution cap
1982	25	$100
1983	25	100
1984	25	300
1985	50	....
1986	100	....
1987	(1)	(1)

[1] Provision scheduled to expire.

Thus, in 1982 and 1983, nonitemizers were allowed to deduct 25 percent of the first $100 of charitable contributions, for a maximum deduction of $25, while for 1984, the maximum deduction is $75 (25 percent of a $300 contribution cap).[2]

For 1985 and 1986, nonitemizers may deduct 50 and 100 percent of their charitable contributions, respectively, without regard to a contribution cap (other than the general Code limitation to 50 percent or other applicable percentage of the taxpayer's contribution base). Under present law, no deduction is to be allowed for any charitable contribution by nonitemizers made after December 31, 1986.

The deduction for nonitemizers is subject to the tax rules generally applicable to charitable deductions, including the limitations on deductibility based on the donor's adjusted gross income and reductions in deductible amount for gifts to certain categories of donees or gifts of certain types of property. The charitable contribution deduction for taxpayers who do itemize deductions was not affected by the 1981 Act changes.

Issues

The proposal to make permanent the charitable deduction for nonitemizers raises several issues of tax policy and administration:

First, the proposal raises the issue of which taxpayers benefit from the deduction for charitable contributions, and what incentive for charitable giving is provided by that deduction. When any deduction (including the deduction for charitable contributions) is limited to taxpayers who itemize deductions, it has value only to taxpayers whose total deductions exceed their zero bracket amount ($3,400 for joint returns and $2,300 for single returns). This may tend to limit the deduction to wealthier taxpayers, who will also benefit more from the deduction because of their higher marginal rates. The legislative history accompanying the 1981 Act suggests that Congress extended the charitable contribution to nonitemizers in order to stimulate charitable giving by a broader section of taxpayers (i.e., taxpayers who did not benefit from itemizing as well as those who did).[3] However, it may be argued that the availability of the charitable deduction to nonitemizers provides a tax incentive primarily for small contributions, many of which would have been made regardless of the incentive; thus, the provision may result in revenue loss without a significant compensating benefit to charitable organizations.

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[2] The dollar caps shown in the table apply to single returns and joint returns; that is, the cap is not doubled for joint returns. For married taxpayers filing separately, the applicable cap is half the amount shown in the table.

Second, the bill raises the general policy of requiring itemization of personal deductions, and allowing such deductions only to the extent they exceed the zero bracket amount. This policy is generally intended to reduce the administrative burden on the IRS (and on taxpayers) by limiting the relevant deductions to those taxpayers having substantial deductions, while allowing other taxpayers to utilize the zero bracket amount. As part of this policy, taxpayers are generally prevented from claiming the benefits of both their personal deductions and the zero bracket amount (since the size of the zero bracket amount was set by Congress to reflect estimated charitable contributions and other itemized deductions). Allowing one specific deduction (i.e., the charitable deduction) to nonitemizers is contrary to this general policy and may create a precedent for further exceptions.

Third, the bill raises administrative problems regarding charitable contributions generally, including the problem of substantiating charitable gifts. These problems may be considerably increased by allowing charitable deductions for nonitemizers, since the IRS is required to audit both nonitemizing and itemizing taxpayers for charitable contributions and the nonitemizing taxpayers may, in some cases, be less aware of the applicable reporting and substantiation requirements. On the other hand, limiting the deduction to itemizers effectively punishes taxpayers for filing less complicated returns and may thus conflict with the goal of simplifying the return process.

Finally, if Congress does extend the charitable deduction for nonitemizers, it may wish to consider the possibility of limiting the amount of the deduction which may be claimed by nonitemizers and the period for which such deductions may be taken.

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[3] See 127 *Cong. Rec.*, S7960-7971, July 20, 1981 (remarks on Senate floor amendment); Staff of the Joint Committee on Taxation, *General Explanation of the Economic Recovery Tax Act of 1981*, p. 49 (December 29, 1981). Currently available IRS figures indicate that charitable deductions were claimed on approximately 22.3 million returns filed by nonitemizers for tax year 1983, for an aggregate of approximately $500.0 million in deductions, a slight increase over 1982, the first year in which the deduction was allowed. The aggregate deduction figure reflects the $25 limit per taxpayer which was in effect for 1983. (Figures supplied by IRS Statistics of Income Division, based on IRS individual master file for returns available through September 7, 1984).

Explanation of Provision

The bill (S. 337) would make permanent the allowance of charitable contribution deductions by nonitemizers included in the 1981 Act and otherwise scheduled to expire on December 31, 1986. Thus, nonitemizers would be able to deduct 100 percent of charitable contributions in any taxable year beginning in 1987 or later years, subject to the general Code restrictions and limitations applicable to such contributions. The bill would not affect the present law treatment of charitable contributions by nonitemizers for taxable years beginning in 1985 (for which 50 percent of contributions are deductible under present law) or 1986 (for which 100 percent of contributions are deductible under present law).

Effective Date

The bill would be effective for contributions made after December 31, 1986.

2. S. 2017—Senators Helms, Jepsen, Exon, Cochran, Zorinsky, and Johnston

Deductibility of Mortgage Interest and Taxes Allocable to Tax-free Allowances Paid to Ministers and Members of the Uniformed Services

Present Law

Disallowance of deductions related to tax-exempt income

Present law (Code sec. 265(1)) disallows a deduction for amounts allocable to income (including interest or other forms of income) which is wholly exempt from tax under the Code. This provision applies (1) in the case of income other than interest income, to any otherwise allowable deduction, and (2) in the case of interest income, to amounts otherwise deductible as expenses for the production of income (sec. 212).[4]

Section 265(1) has most frequently been applied to disallow a deduction for expenses incurred in the production of tax-exempt income (e.g., expenses incurred in earning income on tax-exempt investments). However, the provision has also been applied in certain cases where the use of tax-exempt income is sufficiently related to the incurring of a deduction to warrant disallowance of that deduction. For example, section 265(1) has been held to disallow a deduction for that portion of a veteran's flight-training expenses which were reimbursed by the Veterans Administration under a tax-free educational allowance program (*Manocchio v. Commissioner*, 78 T.C. 989 (1982), *aff'd* 710 F.2d 1400 (9th Cir. 1983)).

Application to ministers and members of the uniformed services

In Rev. Rul. 83-3, 1983-1 C.B. 72, the IRS ruled that a minister may not take deductions for mortgage interest and real estate taxes on a residence to the extent that such expenditures are allocable to tax-free housing allowances provided to the minister under section 107 of the Code.[5] This ruling revoked a 1962 ruling which had taken a contrary position. The 1983 ruling also holds that section 265(1) does not allow a deduction for educational expenses allocable to tax-free scholarships or Veterans' Administration allowances.

The 1983 IRS ruling was generally applicable beginning July 1, 1983. However, for a minister who owned and occupied a home before January 3, 1983 (or had a contract to purchase a home before that date and subsequently owned and occupied the home), the disallowance was not to apply until January 1, 1985 (IRS Ann. 83-100).

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[4] A deduction for interest used to purchase or carry tax-exempt obligations is disallowed under section 265(2) of the Code.

[5] Section 107 provides that gross income does not include (1) the rental value of a home furnished to a minister as part of his compensation, or (2) the rental allowance paid to a minister as part of his compensation, to the extent he uses the allowance to rent or provide a home.

The Tax Reform Act of 1984 (P.L. 98-369) extended the transitional rule for ministers contained in Rev. Rul. 83-3 through January 1, 1986. Thus, for a minister who owned and occupied a home before January 3, 1983 (or had a contract to purchase a home before that date and subsequently owned and occupied the home), the disallowance of mortgage interest or real property tax deductions does not apply for expenses incurred before January 1, 1986. In the case of mortgage interest deductions, this transitional rule applies only to a mortgage which existed on January 3, 1983 (or which was entered into in connection with a contract to purchase a home before that date). The Act did not affect the 1983 ruling's general effective date of July 1, 1983.

Neither the 1983 IRS ruling nor the Tax Reform Act of 1984 affected the application of section 265(1) to members of the uniformed services. However, in December 1983, the IRS announced that it was studying whether members of the uniformed services are entitled to deduct mortgage interest and property taxes to the extent they receive tax-free housing allowances from the Federal Government. The IRS stated that any determination on this issue which adversely affected members of the uniformed services would not be applied to amounts paid before January 1, 1985 (IR News Rel. 83-161).[6]

Issues

A permanent exemption from the disallowance provision for ministers and members of the uniformed services raises a number of policy issues. Allowance of interest and tax deductions in such cases results in an effective double benefit to the individuals concerned, since they receive both tax-free support and a tax deduction (which may then be used to offset other income) as a result of the same activity. This result is inconsistent both with the specific policy of section 265(1) and the general policy of preventing double benefits under the Code. However, it may be argued that Congress, in exempting ministers' and servicemen's allowances from taxation, intended to create a special subsidy for such individuals, and should not limit this subsidy by denying a deduction for related expenses. In the case of servicemen, it is also arguable that, if these deductions are disallowed, the Federal Government will be forced to provide an equal, direct subsidy to servicemen in the form of increased subsistence and housing allowances; thus, the disallowance of deductions might produce little or no net gain to the Federal Government. On the other hand, the amount of the benefit derived from tax deductions varies with the marginal tax bracket of the taxpayer and, as a result, the revenue loss from allowance of the deduction for high marginal tax bracket taxpayers may be higher than a direct subsidy.

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[6] A floor amendment by Sen. Helms, adopted by the Senate April 11, 1984, would have precluded application of the 1983 IRS ruling to ministers or members of the armed forces before January 1, 1986 (regardless of the date of purchase of the residence). However, the reference to members of the armed forces was subsequently deleted in conference.

Application of section 265(1) to ministers who purchased homes prior to 1983 raises a separate issue relating to transitional relief, since it can be argued that these homes were purchased on the assumption that interest and tax deductions would remain in force indefinitely. (The IRS has yet to reach a decision regarding application of section 265(1) to members of the uniformed services.) The Tax Reform Act of 1984 provides transitional relief for such cases through calendar year 1985; however, application of the disallowance rule in 1986 and later years may still result in hardship in some cases. If Congress wishes to provide additional relief in these cases, it may wish to consider a permanent extension of the transitional rule contained in the 1984 Act.

Explanation of Provision

The bill (S. 2017) would provide that section 265(1) is not to apply to income described in section 107 of the Code (i.e., tax-free housing allowances received by ministers), or to allowances described in 37 U.S.C. secs. 402 and 403 (relating to subsistence and housing allowances provided to members of the uniformed services). Thus, under the bill, mortgage interest and real estate taxes paid by ministers or members of the uniformed services[7] would be permanently exempt from the disallowance provision.

Effective Date

The bill would be effective for taxable years beginning after December 31, 1982. Because Rev. Rul. 83-3 was in any case not effective until July 1, 1983, this would effectively prevent application of the disallowance provision to mortgage interest and real estate taxes paid by ministers or members of the uniformed services at any time.

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[7] The uniformed services includes members of the armed forces, the National Oceanic and Atmospheric Administration, and the Public Health Service.

98th CONGRESS
1st Session

S. 377

To make applicable to the Tennessee-Tombigbee Waterway certain provisions of law relating to taxation of fuel used in commercial transportation on inland waterways.

IN THE SENATE OF THE UNITED STATES

February 2 (legislative day, January 25), 1983

Mr. Stennis introduced the following bill; which was read twice and referred to the Committee on Finance

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A BILL

To make applicable to the Tennessee-Tombigbee Waterway certain provisions of law relating to taxation of fuel used in commercial transportation on inland waterways.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 206 of the Inland Waterways Revenue Act of 1978 is amended by adding at the end thereof the following:

"(27) Tennessee-Tombigbee Waterway: From the Pickwick Pool on the Tennessee River at RM 215 to Demopolis, Alabama, on the Tombigbee River at RM 215.4.".

98TH CONGRESS
1ST SESSION

S. 2017

To amend the Internal Revenue Code of 1954 with respect to deductions for the payment of certain expenses by ministers and members of the uniformed services who receive subsistence and housing allowances.

IN THE SENATE OF THE UNITED STATES

OCTOBER 27 (legislative day, OCTOBER 24), 1983

Mr. HELMS introduced the following bill; which was read twice and referred to the Committee on Finance

---

A BILL

To amend the Internal Revenue Code of 1954 with respect to deductions for the payment of certain expenses by ministers and members of the uniformed services who receive subsistence and housing allowances.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT RELATING TO DEDUCTIONS FOR THE PAYMENT OF CERTAIN EXPENSES BY MINISTERS AND MEMBERS OF THE UNIFORMED SERVICES WHO RECEIVE SUBSISTENCE AND HOUSING ALLOWANCES.

(a) IN GENERAL.—Paragraph (1) of section 265 of the Internal Revenue Code of 1954 (denying a deduction for payment of certain expenses relating to tax-exempt income) is amended by adding at the end the following sentence: "The preceding sentence shall not apply to income described in section 107 and shall not apply to the allowances described in sections 402 and 403 of title 37, United States Code.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any deduction for any taxable year beginning after December 31, 1982.

Senator PACKWOOD. The hearing will come to order, please. We have hearings on two bills today—S. 337, relating to charitable contributions, and S. 2017, relating to ministers' housing allowances.

S. 337 is a bill that Senator Moynihan and I and 39 other cosponsors are deeply interested in. It makes permanent the law allowing an above-the-line deduction for charitable contributions. The law will currently sunset at the end of 1986.

I can assure all of the members of the audience, the press and anybody else that it's a subject about which I feel very, very strongly. I hope that we can eliminate the sunset. I think that everything we had hoped this law would do, it is doing. I think the evidence that we had then has proven to be correct, and there is no need to terminate it.

On the ministers' housing allowance issue, I think what we have is a situation where rules are being changed in mid-stream. You can argue the merits or the demerits of whether or not the rules should exist. To suddenly cut them off and say what has been an existing practice for a long period of time will now be abruptly terminated, I think has great elements of unfairness in it.

I will advise all the witnesses that to the extent your statements were in last night, I have had a chance to read them in full and you do not need to read them aloud. They will be in the record in full. Please abbreviate your statements, and emphasize the points you want to make.

We will start with the first panel. I may interrupt the panel if Senator Warner or Congressman Parris come. Let's start with Brian O'Connell, the president of the Independent Sector; and Charles Clotfelter, the vice provost and professor of Public Policy Studies and Economics at Duke University. Mr. Clotfelter has testified before with Marty Feldstein on the famous study in 1980 as to whether or not charitable contributions are justified and what we would hope would work does work.

Mr. O'Connell, why don't you go right ahead?

Oh, excuse me. Congressman Parris just came in. If you wouldn't mind just stepping aside a moment and let the Congressman go on. I will do the same for Senator Warner when he comes.

Good morning, Congressman.

STATEMENT OF HON. STAN PARRIS, U.S. REPRESENTATIVE, STATE OF VIRGINIA

Mr. PARRIS. Good morning, thank you.

Senator PACKWOOD. You just made it in time.

Mr. PARRIS. I apologize for being tardy.

Senator PACKWOOD. That's all right. Good to have you with us.

Mr. PARRIS. Thank you very much.

Senator PACKWOOD. Go right ahead.

Mr. PARRIS. With your permission, I will not trespass on your time to read my entire statement, but would submit it for the record.

Senator PACKWOOD. It will be in the record.

Mr. PARRIS. And, frankly, I will be very brief.

I introduced some time ago a piece of legislation in the House of Representatives to set aside the clergy and military housing situation that we are talking about here today. That amendment on the DOD bill, husbanded by Senator Warner you may recall, defers the IRS application of the taxability to these allowances until January 1985.

But the situation still persists. And in my view, it is simply shortsighted to indicate, as I understand the conferees have done on the military budget proposal for next year, a 4 percent increase, and then in a backhanded way apply the Internal Revenue Service ruling that the net effect is a tax increase and a compensation reduction for military personnel. There is no question that in my view the Internal Revenue Service clearly intends to implement this. They have not indicated that with a ruling, but they have suggested to us informally that since they have applied it to the clergy there is no reason they can't just extend it as a natural thing.

Senator PACKWOOD. The logic is identical. If you are going to apply it to clergy, you apply it across the board to people similarly situated.

Mr. PARRIS. Exactly. And the simple fact is that it will raise literally peanuts in terms of dollars. It is unjust, in my view. It is a violation of a long precedent, historically established, and is very shortsighted, and ill-advised. And if I could think of some other bad words, I would say those.

With that, Senator, I would simply commend you. The philosophy—I don't care, frankly, what the legislative vehicle is, but I think this situation needs very badly to be corrected. And insofar as it relates to the clergy, it is a slightly distinguishable situation because, in fact, the clergy, obviously do not get the Government moneys. By the same token, their income is traditionally very small, and their source of income is suspect in terms of its stability. So that the application of what I think is an important part of this society is the question of taxability of that income is greatly minimized by looking at the whole situation.

In short, I think what I am saying, Senator, is the principle here that can be applied by the Internal Revenue Service is simply ill-advised and wrong and I would hope that we could do something about it legislatively.

Senator PACKWOOD. I agree with you. One, the revenue loss is relatively slight. You should never say money is insignificant, but it is relatively slight in the scheme of events, considering the size of our budget. Two, this has been such a long-standing practice that if you are going to change it, at a minimum, you ought to start it in 1990 or some later date so that people can plan for it.

This has not been one, I am sure, where your constituents or mine have been asking the first question at the Rotary: What about the abuse of the Tax Code by the ministers? Somehow, it doesn't rise to that level.

I hope we can reach the same end you want to reach.

Mr. PARRIS. I would assure you, Senator, that I have heard none of my colleagues in the House leap to their feet and indicate what a marvelous idea this is and how they wish they had thought of it.

Senator PACKWOOD. I agree.

Mr. PARRIS. Thank you very much.

Senator MOYNIHAN. I——

Mr. PARRIS. Well, I wish you well.

Senator PACKWOOD. Thank you for coming over.

Mr. PARRIS. Thank you for having me.

[The prepared statement of Congressman Stan Parris follows:]

COMMITTEE ON
BANKING, FINANCE AND
URBAN AFFAIRS

COMMITTEE ON THE
DISTRICT OF COLUMBIA

CHAIRMAN, HOUSE TASK FORCE
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STATEMENT OF REPRESENTATIVE STAN PARRIS
BEFORE THE SENATE FINANCE COMMITTEE
ON THE TAX TREATMENT OF THE MILITARY/CLERGY HOUSING ALLOWANCE

SEPTEMBER 26, 1984

MR. CHAIRMAN, I APPRECIATE HAVING THE OPPORTUNITY TO TESTIFY THIS MORNING IN SUPPORT OF PRESERVING THE TAX TREATMENT OF THE HOUSING ALLOWANCE RECEIVED BY MEMBERS OF THE MILITARY AND THE CLERGY.

THE INTERNAL REVENUE SERVICE TOOK A GIANT STEP BACKWARDS WHEN IT IMPLEMENTED REVENUE RULING 83-3. ON JULY 1, 1983, THIS RULING WENT INTO EFFECT, PROHIBITING CLERGY FROM EXCLUDING FROM THEIR GROSS INCOME, THE INTEREST AND TAXES THEY PAY ON A PERSONAL RESIDENCE. THEY COULD CONTINUE DEDUCTING THE INTEREST AND TAXES ON THEIR PERSONAL RESIDENCE BUT THEY COULD NO LONGER EXCLUDE THAT AMOUNT FROM THEIR GROSS INCOME. THIS WILL OBVIOUSLY INCREASE THEIR INDIVIDUAL TAX BURDEN.

REVENUE RULING 83-3 WENT INTO EFFECT IN JULY 1983 FOR CLERGY WHO PURCHASED A HOME DURING 1983. BY ADOPTING SENATOR WARNER'S AMENDMENT TO THE TAX BILL, THE CONGRESS HAS DELAYED THE IMPLEMENTATION OF THE RULING. WITHOUT SENATOR WARNER'S AMENDMENT, ALL OF THIS NATION'S CLERGY AND MILITARY COULD HAVE BEEN FORCED TO COMPLY WITH REVENUE RULING 83-3 AS EARLY AS NEXT JANUARY.

THERE HAVE BEEN SOME INDICATIONS THAT THE I.R.S. MAY APPLY THIS SAME PRINCIPLE TO MILITARY PERSONNEL AND THEIR FAMILIES. SINCE MILITARY PERSONNEL USE THE MILITARY QUARTERS ALLOWANCE TO HELP THEM PURCHASE A HOME, THEIR SITUATION WILL BE CONSIDERED TO BE THE SAME AS THE CLERGY. THE I.R.S. HAS INFORMED ME THAT IT IS NOT NECESSARY FOR THEM TO ISSUE A SEPARATE REVENUE RULING DIRECTED

TOWARDS THE MILITARY. ALL THEY NEED TO DO IS TO APPLY THE TAX THEORY WHICH IS SET FORTH IN REV. RULE 83-3 TO MILITARY PERSONNEL.

FOR YEARS, MILITARY PERSONNEL AND THE CLERGY HAVE HAD THE BENEFIT OF THIS TAX EXEMPTION. IT HAS BEEN A WAY IN WHICH THE FEDERAL GOVERNMENT HAS ENCOURAGED INDIVIDUALS TO MAKE CAREERS, IN WHAT HAVE TRADITIONALLY BEEN, OCCUPATIONS OF MODEST INCOME. THE AMOUNT OF REVENUE THAT WOULD BE GENERATED BY THIS ACTION IS INSIGNIFICANT COMPARED TO THE HARDSHIP IT WILL PLACE ON THE CLERGY AND THEIR CONGREGATIONS AND ON MILITARY PERSONNEL AND THEIR FAMILIES.

I HAVE SPONSORED LEGISLATION, H.R. 1905, WHICH WOULD REPEAL REVENUE RULING 83-3. THIS BILL IS A BI-PARTISAN EFFORT THAT HAS ATTRACTED OVER 120 CO-SPONSORS IN THE HOUSE OF REPRESENTATIVES. I ALSO INTRODUCED H.R. 4548 WHICH WOULD CREATE A NEW SECTION TO THE TAX CODE, SPECIFICALLY PRESERVING THE CURRENT TAX TREATMENT OF THE HOUSING ALLOWANCE.

THE SITUATION IS CRITICAL FOR THE CLERGY BECAUSE THE SOCIAL SECURITY AMENDMENTS OF 1983 EXTENDED MANDATORY F.I.C.A. COVERAGE TO ALL EMPLOYEES OF RELIGIOUS INSTITUTIONS. FOR SOCIAL SECURITY PURPOSES, MINISTERS AND RABBIS WILL BE TREATED AS SELF-EMPLOYED, AND ARE REQUIRED TO PAY THE HIGHER SELF-EMPLOYED RATES.

IF WE TAKE THIS BENEFIT AWAY FROM MILITARY PERSONNEL, IT WILL MAKE IT EVEN MORE DIFFICULT TO ATTRACT AND RETAIN QUALIFIED PEOPLE TO SERVE IN OUR ARMED FORCES. SERVICE PAY AND ALLOWANCES SIMPLY DO NOT PERMIT THE SAME STANDARD OF LIVING AND SAVINGS THAT

EQUIVALENT CIVILIAN PAY PERMITS. THE TRADITIONAL NON-CASH BENEFITS ARE ESSENTIAL AND MUST BE PRESERVED DUE TO THE VARIOUS LIABILITIES MILITARY PERSONNEL MUST ENDURE.

SERVICE PEOPLE HAVE NO ESTABLISHED WORKDAY OR WEEK, THEY ARE ON CALL 24 HOURS PER DAY AND GET NO EXTRA PAY FOR OVERTIME WORK OR COMBAT. THEY MUST ENDURE LONG FAMILY SEPARATIONS AND FREQUENT DISRUPTION OF FAMILIY LIFE AND FINANCIAL LOSSES CAUSED BY CHANGES OF DUTY STATIONS. IN ADDITION, THERE ARE MANY OTHER ASPECTS OF MILITARY LIFE WHICH ADD TO THE FINANCIAL BURDENS AND PERSONAL HARDSHIPS THAT SERVICE PERSONNEL MUST ENDURE.

AN IMPORTANT POINT TO CONSIDER IS THAT THE INTERNAL REVENUE SERVICE HAS NOT EVEN MADE AN ESTIMATE AS TO THE AMOUNT OF REVENUE WHICH WOULD BE GENERATED BY ELIMINATING THIS TAX BENEFIT. THE TAX STAFF AT I.R.S. HAS INFORMED ME THAT THIS IS A QUESTION OF EQUITY AND THAT THE REVENUE GENERATED WOULD BE MINUSCULE. I SUBMIT TO THE MEMBERS OF THIS COMMITEE THAT ANY AMOUNT OF REVENUE THAT WOULD BE PRODUCED IS INSIGNIFICANT WHEN COMPARED TO THE BURDEN IT WILL PLACE ON THE CLERGY AND THEIR CONGREGATIONS AND TO OUR NATION'S MILITARY PERSONNEL AND THEIR FAMILIES.

I COMMEND THE FINANCE COMMITTEE FOR GIVING US THE OPPORTUNITY TO CONSIDER THIS CRITICAL ISSUE. THE CONGRESS MUST ADDRESS THIS CONTROVERSY BY IMPLEMENTING LEGISLATION TO MAKE A PERMANENT CHANGE IN THE TAX CODE, PRESERVING THE CURRENT TAX TREATMENT OF THE HOUSING ALLOWANCE. I APPRECIATE HAVING THE OPPORTUNITY TO TESTIFY AND I STAND READY TO ANSWER ANY QUESTIONS YOU MIGHT HAVE.

Senator PACKWOOD. Pat, do you have an opening statement?

Senator MOYNIHAN. I don't, Mr. Chairman. I just look forward to our witnesses.

Senator PACKWOOD. Then we will go back then to Mr. O'Connell and Mr. Clotfelter.

Why don't you go right ahead, Mr. O'Connell.

STATEMENT OF BRIAN O'CONNELL, PRESIDENT, INDEPENDENT SECTOR, WASHINGTON, DC

Mr. O'CONNELL. Mr. Chairman, when Congress, thanks to you and Senator Moynihan, passed the Charitable Contributions Act, it was further indication that it's the intention of the American people and our Government that contributions to the causes of our choice must be encouraged by every possible means.

But what isn't as well understood is that the timeliness of that was particularly significant because as a result of other aspects of that 1981 tax act, the lowering of the tax tables, giving by upper income groups has dropped significantly, alarmingly. In testimony just in August before the full Senate Finance Committee, Senator Bradley said, "How is it that if contributions are so sensitive to tax policy that giving by individuals went up in 1983 by 11 percent when the tax tables had dropped?"

And I was able to explain to him that—and I presented the Treasury figures—that giving has dropped alarmingly among people with incomes over $50,000; 16 percent among persons with incomes above $200,000. But I was also able to point out that that giving loss was more than made up by marvelously increased giving by persons with incomes under $30,000, the very group involved in the charitable contributions legislation.

In that same year, 1983, after 12 straight years of decline, giving as a proportion of personal disposable income rose and rose dramatically in 1983. That's in the charts that are on page 4 of my testimony.

Not only rose, but rose to the highest level in 12 years. A dramatic turn-around in giving as a proportion of personal income, despite giving having dropped so significantly among the upper income categories.

Turning to the specifics of the renewal of the charitable contributions law, Treasury says that the deduction would cost them $1.7 billion. You will hear later from Professor Clotfelter, who along with Martin Feldstein, predicts that giving will go up far more than the loss to Treasury. A conservative estimate, very conservative, is about $2.5 billion in increased contributions.

And what I have said before and I have heard Senator Moynihan say so articulately, is that $2.5 billion may not seem much to a Government with a budget of $800 billion, but $2.5 billion still goes a hell of a long way, excuse me, in this voluntary sector. $2.5 billion is all the money that the United Way is trying to raise nationwide in the campaign just launched. $2.5 billion supports all of Catholic, Protestant, and Jewish charity in the United States.

Using Professor Coltfelter's figures, giving would rise in 1983 by 7 to 12 percent. Now conversely if you look at Treasury's loss of $1.7 billion, that amounts to less than one-quarter of 1 percent of the Federal budget. And I don't need to ask the two of you marvelous supporters, but I do need to ask others, to compare in their minds the tradeoff between expanding all voluntary efforts 7 to 12 percent contrasted by reducing Government expenditures by one-fourth of 1 percent. For an administration and a Congress and a people who revere pluralism and citizen involvement, it's the ultimate absurdity to be talking about cutting the voluntary sector by 7 to 12 percent to save the Government one-quarter of 1 percent.

The Treasury says that charities and the people they serve should let this law expire until the deficit is solved. But that's the same Government that has been turning to voluntary organizations to bail them out in cuts by Government run programs. Treasury also says we must do our share. Everybody has got to do their share. But we were the only ones to respond to their similar appeal 3 years ago when they asked us to phase in the charitable contributions laws. I know you know, Mr. Chairman, that we agreed to that. But now 3 years later they are coming back to us and saying we are the ones who have to carry forward the voluntary spirit heralded by this administration and many in this Congress, and being asked to transfer 5 to 12 percent of our income to supplement one-fourth of the Government's income.

I maintain that if the Treasury's primary interest is to save money, let them find out what it would cost them to pick up the cost of running the services that are supported by the contributions of the people of this country. That will add a minimum of $50 billion to their deficit.

What it comes down to in my mind is what kind of a society we want to have and to resolve to use public policy to encourage just that vision. Making the charitable contributions law a permanent part of tax policy represents a small price but a very large step toward making this a more caring and participatory society.

Thank you.

Senator Packwood. Thank you.

[The prepared written statement of Mr. O'Connell follows:]

INDEPENDENT
SECTOR

TESTIMONY

of

Brian O'Connell
President
INDEPENDENT SECTOR

on S. 337

before the

Senate Subcommittee on Taxation and Debt Management

Senate Finance Committee
Room 215 Dirksen Senate Office Building

September 26, 1984

Summary of Testimony by Brian O'Connell

In no other country in the world is giving so pervasive.

A desire to do good -- to help others and to improve our communities -- is the overwhelming motivation for giving.

The tax deduction influences the size of enough gifts to represent a 25% increase in total giving.

When the Congress extended the deduction to nonitemizers in 1981, it was further indication that it is the position of the American people and our government that all of us should be encouraged to support the causes of our choice.

Since 1981, and the lowering of the tax rates, giving by upper-income persons has declined dramatically, for example, 16% for people with incomes $200,000-$500,000, but the decreases have been more than offset by large increases in giving by the people in the income categories affected by the Charitable Contributions Law, those who earn less than $30,000. Despite significant losses in giving by upper-income persons, giving by individuals rose 11.1% in 1983.

Also in 1983, giving as a proportion of Personal Income (PI) rose to its highest level since 1971.

Failure to continue the Charitable Contributions Law would be a major setback in those encouraging trends.

Treasury says the CCL will cost $1.7 billion in 1986. Conservative estimates by economists suggest that giving will rise by at least $2.5 billion. Two and a half billion may not seem like much to a government with a budget of $800 billion, but it's still an awful lot of money in this voluntary sector. It is more than 5% of all that is given.

The Treasury loss of $1.7 billion is less than one-fourth of 1% of the Federal budget. For an Administration, a Congress and a nation that reveres pluralism and citizen involvement, it's the ultimate absurdity to be debating cutting the voluntary sector by at least 5% to save the government one-quarter of 1%.

The voluntary sector is already doing its share on the deficit by picking up a significant part of the workload dropped by government agencies and by agreeing to a phase-in of the Charitable Contributions Law.

If the primary interest of Treasury is to save money, let them ponder what it would cost them to take over responsibility for programs and institutions now funded by contributions. It would add at least $50 billion to the deficit and dry up the voluntary spirit that they say is the heart of our country.

The issue comes down to what kind of society we want to be and a resolve to use public policy to encourage that vision. Making the Charitable Contributions Law a permanent part of tax policy represents a small price and large step toward a more caring and participatory society.

INTRODUCTION

My name is Brian O'Connell. I am President of INDEPENDENT SECTOR, a membership organization of 582 national voluntary organizations, foundations, and business corporations which have banded together to strengthen our national tradition of giving, volunteering and not-for-profit initiative. A list of our members is attached.

Our Voting Members are organizations with national interest and impact in philanthropy, voluntary action and other activity related to the independent pursuit of the educational, scientific, health, welfare, cultural and religious activities of the nation. The range of members includes the American Heart Association, United Negro College Fund, Goodwill Industries of America, Kellogg Foundation, National Council of Churches, Native American Rights Fund, Association of Junior Leagues, CARE, Council on Foundations, American Association of Museums, Council of Jewish Federations, National Puerto Rican Coalition, National Conference of Catholic Charities, National Audubon Society, Equitable Life Assurance Society of the U.S., National Association of Independent Colleges and Universities, United Way of America, Brookings Institution, American Enterprise Institute, Appalachian Mountain Club, and the American Red Cross. The common denominator among this diverse mix of organizations is their shared determination that the voluntary impulse shall remain a vibrant part of America.

THE PERMANENT CHARITABLE CONTRIBUTIONS LEGISLATION (CCL)

I am here today to urge your support of the Permanent CCL, S. 337 (Packwood/Moynihan/Durenberger/Heinz). The Charitable Contributions Law (CCL), which passed the Congress as part of the Economic Recovery

Tax Act of 1981, gave nonitemizers for the first time, the opportunity to deduct their contributions to charitable organizations. The new legislation, the Permanent CCL, would delete the sunset provision, making the charitable deduction for nonitemizers a permanent part of the Tax Code. The legislation has substantial support in the Congress with 40 Senate cosponsors and 248 House cosponsors.

In no other country in the world is giving for public purposes so pervasive and powerful a part of national life as it is in the United States. The desire to do good and to improve on communities is the underlying motivation, but the tax deduction helps influence the size of many gifts.

Historically, tax policy has encouraged the development of voluntary initiative. From the earliest beginnings of our country, deliberate effort has been made to encourage private initiative for the public good and to promote and sustain the voluntary institutions through which the nation does so much of its public business. Those conscious efforts included the property tax exemption and, when the modern day Federal income tax was adopted, the charitable contributions deduction.

The action of Congress in 1917 to provide for the charitable contributions deduction was a clear indication of our determination as a society that we wanted to find every conceivable way to encourage pluralism and maximum possible involvement of citizens in addressing their own problems and aspirations. When the Congress extended the deduction for nonitemizers, in 1981, it was further indication that it is the position of the American people and our government that all of us should be encouraged in every way possible to support the causes of our choice.

It was fortunate that the provision was voted when it was. It has offset the unintended but very real impact on giving as a result of the lowering of the top tax table from 70% to 50%. In separate testimony this morning, Professor Charles T. Clotfelter of Duke reports Treasury Department figures which show that as a result of reduction in the top tax tables, giving among persons with incomes above $50,000 has declined, particularly as the income categories rise. For example on his page 4, he illustrates that giving has declined 16% among persons with incomes of $200,000-$500,000 and 33% in the range $500,000-$1,000,000.

During August testimony on tax reform before the full Senate Finance Committee, Senator Bradley asked how it could be, if giving is sensitive to tax rates, that contributions had gone up 6% in 1983 even after the 1981 Tax Act had reduced the tax tables? I was able to report that the news was even better than he had heard because gifts by individuals had gone up by more than 11% in 1983. I was also able to give him the Treasury figures showing the alarming decline in giving among upper-income earners, but I was able to tell him that those decreases had been more than offset by increased giving among lower-income families, particularly those with incomes under $30,000, the large group benefiting by the charitable contributions provisions within the same 1981 Tax Act. Senator Bradley showed surprise at this dual indication of the influence of tax factors on contributions and expressed pleasure with the overall results. He turned to Chairman Dole and observed that this was important information on both ends of the income and giving scale.

Not only did giving by individuals rise by 11% in 1983, a tough economic year and one in which giving in the upper brackets declined so dramatically, but for the first time in 12 years, giving as a proportion of Personal Income (PI) began to rise after 10 straight years of decline. Not only did the trend reverse, it did so in a dramatic turnaround, bringing it to its highest level since 1971. These are the figures from "Giving USA - 1985" produced by the American Association of Fund-Raising Counsel, Inc.:

Giving by
INDIVIDUALS

	Amount (billions)	Personal Income (billions)	Percent of Income
1970...	$15.92	$ 801.3	1.99
1971...	17.02	859.1	1.98
1972...	18.19	942.5	1.93
1973...	20.43	1,054.7	1.94
1974...	22.33	1,154.7	1.93
1975...	24.24	1,255.5	1.93
1976...	26.57	1,381.6	1.92
1977...	29.22	1,531.6	1.91
1978...	32.79	1,717.4	1.91
1979...	36.39	1,923.1	1.89
1980...	39.78	2,160.2	1.84
1981...	44.60	2,404.0	1.86
1982...	48.47	2,578.6	1.88
1983...	53.85	2,742.1	1.96

For a country -- and an Administration and Congress -- that wants to encourage private initiative for the public good, those developments are wonderfully good news. One of the central reasons that INDEPENDENT SECTOR was formed in 1980 was to reverse the relative decline in personal giving and the Charitable Contributions Legislation was our first initiative. Passage of that Law was a milestone in the revitalization of personal participation. That trend must be continued. Therefore the Charitable Contributions Law must be renewed.

The Treasury Department says that the deduction will cost them $1.7 billion in 1986. Professor Clotfelter, Martin Feldstein and other economists predict that the deduction will increase contributions by a good deal more than that. Taking a conservative average of their projections, giving is likely to increase by at least $2.5 billion. (Some predict as high as $5.7 billion)

Two and a half billion may not seem like much to a government with a budget of $800 billion, but it's still an awful lot of money in this voluntary sector. It's more than all the money being sought throughout the country in this fall's United Way appeal. It would sustain all of the charitable efforts of all the Catholic, Protestant, and Jewish charities in the country. It is more than 5% of all that is given.

Conversely, the Treasury loss of $1.7 billion is less than one-fourth of 1% of the Federal budget. Compare in your own mind the tradeoff between expanding all voluntary effort in our society by at least 5%, contrasted with reducing Federal expenditures by one-fourth of 1%. And match that against the widespread determination to expand citizen participation in our communities and the nation.

Even if the $1.7 billion were taken from charities and used to reduce the Federal deficit of $200 billion, it would still be less than 1%

of the total. And that only compares dollars to the Treasury against dollars to voluntary organizations. It doesn't count the increased volunteering that goes with contributions and which contributions generate. For an Administration, a Congress and a nation that reveres pluralism and citizen involvement, it's the ultimate absurdity to be debating cutting the voluntary sector by at least 5% to save the government one quarter of 1%.

The Treasury says that charities and people they serve should let this Law expire until the deficit is solved. That's the same government that is asking voluntary organizations to respond to greater demands as a result of cutbacks in government-run programs. Many voluntary human service programs have been hit by a triple whammy. The government is paying out less for public services contracted with voluntary agencies such as for day care. Contributions among the well-to-do have been reduced as a result of lowered tax rates and caseloads are being transferred from government agencies to voluntary ones.

The Treasury says that everyone must do his share, but as nearly as we can see, we were the only ones to respond to their similar appeal three years ago when, in recognition of the deficit and with the assurances that the new Administration would find other ways to strengthen voluntary effort, we agreed to a slow phase-in of the Charitable Contributions Law so that its full impact of the $1.7 billion cost would not be felt at once. Now having responded with agonizing restraint which required waiting for the deduction to phase-in to a level where it could help us with increased caseloads, we are the ones being asked to give it all up. That's not fair.

The government pushed the workload on us and we accepted. The government asked us to set an example of restraint in the face of national deficits and we accepted. Three years later, after being the ones to carry forward the voluntary spirit heralded by the Administration and Congress, we are the very same ones being asked to transfer 5% of our income to provide the government with a supplement of one-fourth of 1% to theirs. We are rather proud to be known as soft-hearted, but rather angered to be treated as soft-headed.

If the primary interest of Treasury is to save money, let them ponder what it would cost them to take over responsibility for programs and institutions now funded by contributions. It would add at least $50 billion to the deficit and dry up the voluntary spirit that they say is the heart of our country.

The issue comes down to what kind of society we want to be and a resolve to use public policy to encourage that vision. If pluralism is part of that ideal, then it is absolutely essential to search out every possible way to encourage just such behavior. The deduction of charitable gifts has provided a significant incentive for increased giving, but even more important has served to remind all of us that it is the philosophy and policy of the people and our government, that giving is an act for the public good that is to be fostered. These direct and indirect encouragements have helped to build the enormous degree of pluralism and citizen participation that are among the country's most important characteristics. Making the Charitable Contributions Law a permanent part of tax policy represents a small price and large step toward a more caring and participatory population.

STATEMENT OF CHARLES T. CLOTFELTER, VICE PROVOST FOR ACADEMIC POLICY AND PLANNING AND PROFESSOR OF PUBLIC POLICY STUDIES AND ECONOMICS, DUKE UNIVERSITY, DURHAM, NC

Senator PACKWOOD. Professor Clotfelter.

Professor CLOTFELTER. Mr. Chairman, Senators, I'm pleased to have the opportunity to testify again on legislation that would now extend the deduction for charitable contributions to nonitemizers.

My background is that I have been engaged in economic and econometric studies of charitable giving. I have a written statement which I think that you have not gotten, and I apologize for that. It will be on the way.

Senator PACKWOOD. Thank you.

Professor CLOTFELTER. The most recent study that I have undertaken is a 2-year study sponsored by the National Bureau of Economic Research that surveyed and simulated some of the effects of different policies. And what I would like to do is briefly summarize the economic literature and then say what my simulations would indicate the effect that this provision would have.

There is quite a large body of econometric data now that indicates that the charitable deduction for itemizers has significant and large effect on the level and distribution of giving by individuals. This is not to say that taxes are the only or the most important effect that would stimulate giving, but that the tax has an effect.

The most clear, well-defined effect is the effect on the net cost per dollar of giving. If I am not an itemizer—if I do not get a deduction—each dollar I give costs me $1. But if I am allowed to deduct that, the net cost per dollar falls according to the rate at which I am allowed to deduct it. And that is the marginal tax rate. So that the price or the net cost for somebody at a 33-percent marginal tax rate would be something like two-thirds of a dollar.

The magnitude of this price affect is expressed by economists in hard to understand elasticities. But what this would mean in layman's terms would be that a decrease in the net cost per dollar of 10 percent would lead to an increase in giving of somewhere in the range of 9 to 14 percent.

What is the significance of this for this deduction for nonitemizers?

Senator MOYNIHAN. Why don't you see if we remember some freshman economics and give us the elasticity ratio there?

Professor CLOTFELTER. The elasticity is the ratio of the change in the quantity over the change in this net cost.

Senator MOYNIHAN. Well, give us those ratios as you just described them.

Professor CLOTFELTER. They would be negative numbers, and they would be in the range of -0.9 to -1.4.

And we have discussed those elasticities before and obviously they are central to any kind of estimation about the effect of legislation like that.

Econometric evidence is based on not only itemizers but nonitemizers. So we believe that a deduction for nonitemizers would have similar effects.

What is the likely impact of this provision? We don't know for certain. We can't tell for certain because as it is now laid out, the limits on this deduction right now are so severe that most—even nonitemizers—already give more than the $100 limit. So it would be impossible to tell even if we had data instantaneously available what the effect of the present deduction is.

But we can, using econometric models, estimate what the effect would be. I have done that using 1983 as the base year, and using two sets of behavioral assumptions. Senator Moynihan pointed out the elasticity. One elasticity I used is −1.28. The other elasticity is one that varies and one that gets smaller in absolute value at low incomes because the evidence that I have seen indicates that low income taxpayers may be less sensitive, though still sensitive.

Based on these kinds of simulations, the change in giving in 1983 would be on the order of $5.4 billion, using the constant elasticity number; $3.2 billion using the variable elasticity. Those translate into an increase in total giving, itemizers and nonitemizers included, of from 7 to 12 percent. Comparable numbers that Marty Feldstein and Larry Lindsey got for 1977 were about $4.5 billion. So these are on the same order of magnitude.

The conclusion, Senators, would be from my study, even though we don't know for certain, that this new deduction would have a significant impact on charitable giving.

Senator PACKWOOD. Thank you.

[The prepared written statement of Professor Clotfelter follows:]

STATEMENT OF CHARLES T. CLOTFELTER
BEFORE THE

SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT
SENATE FINANCE COMMITTEE

Wednesday, September 26, 1984
9:30 a.m.

SUMMARY OF POINTS

1. The existing charitable deduction has a sizable effect on the level of charitable giving in the U.S. Its major incentive effect is to decrease the net cost per dollar of making charitable donations.

2. It is likely that the charitable deduction for nonitemizers will affect giving by nonitemizers in the same way. Econometric models of giving suggest that a full deduction for nonitemizers would increase total contributions by individuals by 7 percent or more.

3. Because the deduction for nonitemizers is quite limited during its phase-in period, it is impossible so far to use actual data to judge the effect of this deduction. The only result of the 1981 tax act now apparent is a sharp drop in giving at high income levels.

4. A full evaluation of the charitable deduction for nonitemizers requires a comparison of all social benefits and costs, not just dollar changes in contributions and tax revenues.

5. More general tax changes, such as flat-rate income taxes, have the potential for larger impacts on giving than the deduction for nonitemizers.

STATEMENT

The Economic Recovery Tax Act of 1981 included a provision whereby taxpayers who do not itemize their deductions can nevertheless take a deduction for charitable contributions. The provision was phased in beginning in 1982 and is scheduled to be a full deduction comparable to that available to itemizers in 1986, after which it is set to expire. The Permanent Charitable Contributions Legislation (HR.1315/S.337) would make this deduction a permanent part of the tax code. As I will argue below, I believe this legislation would have a significant impact on charitable giving. In the history of tax legislation effecting charitable contributions, only the original deduction (1917) and the standard deduction (1944) are as important as this deduction for nonitemizers in terms of potential impact on charitable giving, although future tax changes could have even larger impacts on contributions. The purpose of my testimony is to give my assessment of the effect of the charitable deduction on giving in general and the effect of this deductions in particular.

1. The effect of the charitable deduction in general.

Contributions by individuals vary widely by income level and age as well as among individuals within those classifications. Since 1917 the major tax policy instrument affecting individual giving has been the charitable deduction allowed in the calculation of taxable income for taxpayers who itemize their deductions. This tax treatment has two major tax impacts on individual giving: the tax liability affects the after-tax income from which taxpayers can make contributions, and the deduction reduces the net cost per dollar of contribution made. A taxpaper in a 33 percent marginal tax bracket, for example, reduces his tax or her liability 33 cents for each dollar of contributions. The net cost of giving is thus only 67 cents per dollar of contributions. Econometric analyses of individual giving indicate that the income tax--through its effects on the net cost of giving and on disposable income--has a strong effect on giving. While this is not to say that taxes are the only or the major influence on individual contributions, these studies certainly show that they are one significant factor.

Taken as a whole, the empirical work on tax effects and individual giving is notable for the number and variety of studies in the area and the consistency of the findings. In few other applied areas in public finance has there been such extensive replication of empirical findings using different data sets. Studies of charitable contributions have used aggregated and individual data, data from tax returns and survey data, and foreign as well as U.S. experience. The consensus of these studies is that the price elasticity for the population of taxpayers is probably greater than 1 in absolute value, although there are certainly estimates that are smaller and estimates that are considerably larger than this. The range of most likely values appears to be about -0.9 to -1.4, although we are less certain of values for lower income taxpapers. Taxes also influence giving through an income effect, with most estimates of the income elasticity falling between 0.6 and 0.9. This econometric literature was discussed in the hearings on S.219 in 1980 and have been summarized in other places.[1]

The major implication of this literature is that a deduction for charitable contributions is an effective instrument for stimulating giving. As an illustration of the importance of the incentive effect of the charitable deduction, Feldstein and Taylor used parameters from econometric models to estimate that eliminating the deduction itself would have caused contributions by itemizers to decline by 26 percent in 1970.[2] Other support for the importance of the charitable deduction can be taken from the observation that in developed countries without full tax deductions for contributions the percentage of personal income contributed is generally much less than in the United States. A deduction for nonitemizers could be expected to have an effect on giving similar to that of the deduction for itemizers, depending on the taxpayers' responsiveness at different income levels.

2. The effect of the charitable deduction for nonitemizers.

Using parameters from previously estimated models, one can predict the effect of the new charitable deduction for nonitemizers. If the marginal tax rates of nonitemizers are known, it is straightforward to calculate what the net cost per dollar of giving would be if nonitemizers could deduct their contributions like itemizers. As a part of research on taxes and charitable giving for the National Bureau of Economic Research, I constructed a computer model intended to simulate, or predict, the effects of various tax provisions and proposals on charitable giving by individuals. All of the simulations are carried out using 1983 prices and incomes, and taxes are calculated using the 1983 tax schedules. In the case of the deduction for nonitemizers, the model is intended to simulate the long-run, permanent level of giving that would result from the deduction, not necessarily the level that would be observed the first year after the deductions were put into place. Because there are lags in individual giving patterns, it may take several years for a significant tax change to have its full effect on giving.

As a casual review of previous testimony before this Subcommittee or published articles on this subject would show, the crucial parameter in any prediction of tax effects on giving is the price elasticity, the ratio of the percentage change in giving to the percentage change in the tax-price occasioning it. In the simulations I undertook, I used two alternative models. The first embodies a constant price elasticity of minus 1.27 (and an income elasticity of + 0.78). The second allows the price elasticity to vary, with low-income households assumed to have less responsiveness than high-income households.[3]

The following table summarizes the predicted effects of a full deduction for nonitemizers in 1983:

	Model	
	Constant Elasticity	Variable Elasticities
Increase in giving	$5.4 billion	$3.2 billion
Increase as percent of total giving	11.9%	7.0%

Quite clearly, which model is selected makes a significant difference. While the constant-elasticity form implies an increase in giving on the order of $5.4 billion, the model assigning less responsiveness to lower income households yields an increase of only $3.2 billion. My rough calculation of the revenue loss associated with the full deduction is substantially less than the increase in giving using the constant elasticity model and somewhat more than the increase using variable elasticities. As has been pointed out before, a price elasticity of minus one would produce an increase in giving equal to the revenue loss.

The central message of these calculations, I think, is that a full deduction for nonitemizers would produce a sizable increase in charitable contributions. These simulations suggest an increase in the range of 7 to 12 percent. It is worth noting the likely distribution of these increased contributions by type of charitable organization. Because of the preponderance of religious giving at lower and middle incomes, estimates based on past giving patterns suggest that roughly three-fourths of this increase in giving would go to religious organizations.

3. Can the impact of the 1981 tax act on giving be observed directly?

Obviously it would be better to observe the effects of the new charitable deduction directly than to rely on simulations of the law's likely impact. It is impossible at this time, however, to make a direct assessment of the impact of this deduction for two reasons. First, published data for the first year of the phased-in deduction, 1982, are only now being published. Second, and more important, the limits placed on the deduction during the phase-in period make it next to impossible to observe any appreciable stimulus to giving. In 1972 and 1983, only the first $100 of contributions was deductible. Yet the best available estimates of giving by nonitemizers shows that average giving in every income class, down to $3,000, exceeds $100. Very few nonitemizers will receive any incentive for additional giving in 1982 and 1983. Only in 1984, when the limit rises to $300, will any appreciable number of nonitemizers see a decrease in the net cost of making additional contributions.

The only tangible impact of the 1981 tax act on giving that is so far apparent is a sharp decline in average contributions in the highest income classes. Marginal tax rates in the top brackets were cut from as much as 70 percent to a maximum of 50 percent, thus increasing the net cost of giving to the most affluent taxpayers. As Table 1 shows, the average giving in these highest classes dropped sharply, lending support to econometric models of giving that embody a significant tax-price effect.

Table 1
Average Contributions by Itemizers,
1981 and 1982

Income	Average contributions		Percent change
	1981	1982	
Under $5,000	192	192	0
$ 5,000 - 10,000	490	516	+ 5
$ 10,000 - 15,000	574	583	+ 2
$ 15,000 - 20,000	595	617	+ 4
$ 20,000 - 25,000	613	646	+ 5
$ 25,000 - 30,000	643	685	+ 7
$ 30,000 - 50,000	885	918	+ 4
$ 50,000 - 100,000	1,709	1,689	- 1
$ 100,000 - 200,000	4,716	4,533	- 4
$ 200,000 - 500,000	14,483	12,099	- 16
$ 500,000 - 1,000,000	50,125	33,834	- 33
$1,000,000 or more	204,499	146,530	- 28

Source: United States, Internal Revenue Service (1983), Statistics of Income--1981, Individual Income Tax Returns, Table 2.1, pp. 53-54; Marshall Epstein, "Preliminary Income and Tax Statistics for 1982 Individual Income Tax Returns," SOI Bulletin 3 (1983-84), 11-22.

4. Is a charitable deduction for nonitemizers good public policy?

Based on the research that I have done, I believe that a permanent deduction for nonitemizers would have a sizable impact on charitable giving, increasing total giving by 7 percent or more. This increase would carry with it benefits to society in the form of expanded services of nonprofit organizations and enhanced diversity in types of organizations engaged in charitable and other exempt activities. In addition, there is mounting evidence that tax incentives to make contributions also encourage individuals to become involved in volunteer work. In a pluralistic society that values diversity as well as community initiative, these surely are benefits to be counted. The deduction for nonitemizers has a cost as well, of course. The reduction in tax revenues caused by the deduction either reduces the services available through government or causes revenues to be collected from some other source.

To evaluate the deduction fully, it is necessary to do more than compare the increase in dollars contributed with the decrease in tax dollars collected. The full social benefits and costs must be considered. As an economist I have no unique insight into these judgments although as an employee of an institution that relies heavily on tax-deductible gifts I do certainly have a perspective on some of the fruits of our historic tax treatment of charitable giving.

5. The potential impact of broader tax reform.

Although proposals for broader tax reform are not the subject of these hearings, it is useful to note the potential impact of such reform on charitable giving. Not only may other tax changes have a bigger potential impact than this deduction, but the effect of this deduction could vary significantly if instituted in a tax structure different from the existing one.

Table 2 gives the simulated results of three tax changes in addition to a deduction for nonitemizers. It is clear from these illustrative changes that a fundamental change in the tax structure could have a large inhibiting effect on contributions, particularly if the deduction for itemizers were eliminated. The ultimate effect of making permanent the deduction for nonitemizers would depend on the marginal tax rates faced by nonitemizers. Since they could conceivably increase as well as decrease under some tax reform schemes, the effect of this bill under other tax regimes could be quite different from those estimated for the current tax law.

Table 2
Impact of Hypothetical Tax Proposals and Provisions in Charitable Giving, 1983

	Percentage change in contributions	
	Constant elasticity model	Variable elasticity model
Add charitable deduction for nonitemizers	+ 12	+ 7
20.7% flat-rate tax on taxable income	- 12	- 10
13.6% flat-rate tax on AGI, no charitable deduction	- 27	- 20

FOOTNOTES

[1] See U.S. Congress, Senate, Committee on Finance, Subcommittee on Taxation and Debt Management, Charitable Contribution Deductions, Hearings on S.219, 96th Congress, 2nd Session, January 30-31, 1980 and Charles T. Clotfelter and C. Eugene Steuerle, "Charitable Contributions" in H. J. Aaron and J. A. Pechman (eds.), How Taxes Affect Economic Behavior Washington: Brookings Institution, 1981.

[2] Martin Feldstein and Amy Taylor, "The Income Tax and Charitable Contributions," Econometrica 44 (1976), 1201-1221.

[3] See Charles Clotfelter, Federal Tax Policy and Charitable Giving, National Bureau of Economic Research monograph, in press, chapter 3.

Senator PACKWOOD. I will say, Pat, that before you got here, I indicated that this is one of the few bills that we have passed that has worked out the way we hoped it would work at the time we passed it. The statistics that Professor Clotfelter and Marty Feldstein gave us then turned out to be accurate in their projections. The point that Mr. O'Connell made about why on Earth when we have the private sector doing something relatively well, relatively inexpensively, in comparison to what it would cost the Government to do, why should we tinker with it and limit it?

We see some of this—and Pat and I are on the same side of this issue—in the effort to tax employee benefits in areas like health insurance or pensions or education provided by the employer. It works perfectly well now in fulfilling the function the Government would otherwise have to fulfill. If we tinker with it and tax it and limit it, eventually the public sector will take it over at a cost greater than it does now. Plus, they would lose the spirit of all of the volunteers who give their time.

Mr. O'CONNELL. Just to add to that, Mr. Chairman, it is absolutely clear that givers volunteer and volunteers give so that you are absolutely right that if you reduce giving or as you induce giving, you impact volunteering. And that volunteering, obviously, then leads to greater giving as citizens know the issue.

Many voluntary organizations are faced with what I call a "triple whammy." That their budgets have been cut because the Government is spending less on day care. Their upper income contributors have decreased their contributions because of lowering of the tax table and Government programs are turning over their caseloads to voluntary organizations as the Government cuts back Government programs. So it's a triple whammy.

And now they're saying, "Well, cut your income further so that we can cut the deficit by one-fourth of 1 percent." It's absurd.

Senator PACKWOOD. One of the classic examples of your statement of volunteers give and givers volunteer is in Oregon. Oregon has a political tax credit law identical to the Federal Government's. The Federal Government's, of course, is on a joint return. You can give $100 and you can get a $50 tax credit. Oregon has the same so you can get a $50 tax credit. So, literally, there is a 100-percent credit.

Now you are only entitled to take up to $100 or $50 on a single return. But there are hundreds of thousands of people in Oregon who have never given to politics before. If you can find them and say, look, this is 100 percent, you give me $100, you get $100 off your income tax, you would be amazed at how many people you can bring into the political process. Indeed, once they have given, they will come along as volunteers. It works out perfectly, I think to the absolute benefit of democracy. You are involving thousands of people, small donors, in a process that we all wish more people would be involved in.

Professor CLOTFELTER. Senator, if I may—this may seem like damning with faint praise—but there is even econometric evidence to suggest that individuals will volunteer more when they have a deduction, and a deduction at a greater rate. These two activities seem to go together. So even economists have discovered that.

Mr. O'CONNELL. We'll take praise wherever it comes.

Senator PACKWOOD. Pat.

Senator MOYNIHAN. Well, Mr. Chairman, I would like to thank both of our witnesses. Mr. O'Connell is valiant. That's no surprise. Professor Clotfelter is only the most recent in a distinguished series of economists at the National Bureau who have tried to quantify this.

I'd like to emphasize what the chairman said. That when we got the Senate and the Congress to adopt this measure in 1981, we were working from data. We had something more than a curve drawn on an expense account napkin that showed that if you reduce taxes you raise revenues. We didn't say that. We said if you increase the charitable deductions, you increase charitable deductions. We made very modest rates. We didn't say that charitable contributions would triple or quadruple. We estimated an increase within the range of elasticities that Marty Feldstein had originally estimated and which you have replicated. There seems to be something of a constant here.

Congress is good at such changes, when it doesn't get carried away in changing the world, but just improving the world a little bit.

I would like to ask Mr. O'Connell if he doesn't agree that we are not just dealing here with tax policy, Mr. Chairman, we are dealing here with social policy. We had a Tax Code which greatly skewed the charitable role in society in favor of the higher income groups. Did we not?

Mr. O'CONNELL. Yes. Very much so.

Senator MOYNIHAN. I mean if you looked around and said who are the benefactors in this society, they were the people with money and conspicuously so.

It turns out that there has been a sharp dropoff, startling dropoff, in higher income contributions which fortunately has been overmatched by an increase in contributions from lower income people. We are democratizing charitable activity. And that is a fundamental thing in a society—especially in a century in which this kind of activity tends to be taken over by government and dries up completely.

In Europe—and you and I have talked about this—in Europe, particularly in Britain, where the 19th century saw a huge increase in charitable activities, they are almost wholly assumed by government now. There is not that participation.

And if you think about it as something of value to your society, then you think of legislation like this in terms larger than just what is lost in taxes, what is gained in contributions, you know, cash flow to particular activities. This is a social issue and a political issue. An issue of democratization. Would you agree? I think you would.

Mr. O'CONNELL. Absolutely. Let me just add three quick points that support that. One, as you know, I was for many years the national head of the Mental Health Association, and all of our contributions came through voluntary efforts. We would not accept Government money because we were trying to be independent. When I visited my counterparts in Great Britain who got all of their money through one grant from the Ministry of Health, and I told some of the things we were doing to try and represent the mentally ill, they were aghast. They said, "We would lose our grants overnight if we behaved like that."

The second point is a frustration that we feel that here is an administration that is espousing that social philosophy more articulately, more definitely, more daily, than any that I know in the past, and yet its Treasury Department is saying that the charitable contributions legislation should be dropped. Now that's crazy. That's not just bad social policy. That's crazy administration communication.

The third point is that tax policy has from the start with the exemption of the property tax said that private initiative for the public good is to be encouraged, if we want to disburse power, disburse participation. And that was so in 1917 when the Tax Code was developed. And with your marvelous bill in 1981.

We have proven that the law democratizes giving. That brings people into participation. That empowers people. And now the administration and some in Congress are saying, "Well, that was nice, but we have got to deal with the deficit." The deficit is real, but let's not confuse immediate fiscal policy with broader social policy.

Senator MOYNIHAN. Mr. Chairman, I would just like to make one comment and then turn it back to you. With regard to the Treasury, the Treasury came before us in 1981 and said that we could make enormous reductions in the marginal rates of taxation for high income persons and that this would not have the effect of any significant loss of revenue over a very short period. Within a very short period, this would be recovered. Mr. Clotfelter, you are an economist. You must remember that argument.

You nod. And the Treasury was wrong. Right?

Professor CLOTFELTER. Many of us said that at the time.

Senator MOYNIHAN. And some of you said it, right. They were dead wrong in what they said would be the effects on revenues of the tax cuts they proposed, and having been wrong, they want to come around and spoil the one thing in the deal that did work, and is making up for some of the consequences of their larger mistake. It seems why you should be punished for having been right, and they be righteous for having been wrong. It seems a little obscure, but not unknown.

Thank you, Mr. Chairman.

And thank you, Mr. Clotfelter, for agreeing. [Laughter.]

Senator PACKWOOD. The record will show that you nodded. [Laughter.]

Professor CLOTFELTER. Thank you.

Senator PACKWOOD. Thank you very much. Senator Warner, are you ready?

Senator WARNER. Thank you very much, Mr. Chairman.

Senator PACKWOOD. I might add as a preface that I understand that our other activities off the Hill are all set for tomorrow.

Senator WARNER. That's correct. Thank you, Mr. Chairman. I look forward to that.

STATEMENT OF HON. JOHN W. WARNER, U.S. SENATOR, STATE OF VIRGINIA

Senator **Warner**. Mr Chairman, Senator Moynihan, I'm here on behalf of legislation that relates to both military personnel and to the clergy. Senator Helms, Congressman Parris and I have all sponsored bills and amendments seeking to block the application of IRS ruling 83-3 to the tax-free housing allowances of these two groups.

I might add, that at roughly 2 a.m., yesterday morning, the House and Senate Armed Services concluded their committees' conference on the 1985 defense authorization bill. Reluctantly I watched as we had to eliminate my amendment from that bill, which would have cured this problem.

Now this morning we are greeted by the Navy Times. The chairman, and Senator Moynihan, understand that this paper is distributed throughout the world to military personnel. And the headline is "Treasury Pushes for End to Homeowner Tax Break." You can imagine the impact on the morale of our military people serving throughout the world to read of that because they treasure, as we do, their homes. As such they are being forced now to make the decision do they buy any more, do they sell what they have, or what they can do.

So this is, in my judgment, one of the most important issues facing the military profession. And, indeed, the clergy. I'm hopeful that this committee will address the issue.

I'm going to ask that, basically, my statement be inserted to save time.

Senator **Packwood**. It will be in the record in full.

Senator **Warner**. I'm sure that the chairman and Mr. Moynihan have clearly got this issue framed in mine.

Just one aspect of it, however, Mr. Chairman, is that if this proposed regulation were to go through, the Department of Defense estimates that at least 270,000 military homeowners at any time will incur an additional tax burden equivalent to 4 to 6 percent of their pay. The estimated revenue gains to the Treasury will be approximately $300 million. But if the Department of Defense were to put in a pay raise to compensate for that, there would be no way practically to do it just to the homeowners. The Defense Department estimates that the pay raise would cost the American taxpayers $1.1 billion. This would mean a net loss to the Treasury of $800 million.

Gen. John Vessey, Chairman of the Joint Chiefs of Staff, has stated, "Our most conservative projections indicate that this action would result in the loss of tens of thousands of trained career officers and enlisted personnel essential to the maintenance of the readiness of our forces."

He concluded, "This revenue ruling issue will continue to take its toll on the morale and welfare of service members until it is favorably and permanently resolved."

I urge that this committee proceed to achieve that goal at the earliest opportunity.

Senator **Packwood**. I hope we can. Congressman Parris was here earlier.

Senator **Warner**. I understand.

Senator **Packwood**. I think in the argument for both the military and the clergy it is equally valid. And I hope before we are done in the next 8 or 9 days we can reverse that situation that the IRS wants to impose.

Senator **Warner**. Mr. Chairman, I'm very grateful for that statement by the Chair, and I presume it is concurred by the distinguished Senator from New York.

Senator **Moynihan**. It would not be inappropriate to say you are preaching to the choir. [Laughter.]

Senator **Warner**. Well, thank you very much.

Thank you very much.

Senator **Packwood**. Thank you very much, Senator.

[The prepared written statements of Senators John W. Warner and Jesse Helms follow:]

TESTIMONY BY SENATOR JOHN W. WARNER BEFORE THE SENATE FINANCE COMMITTEE SUBCOMMITTEE ON TAXATION AND BUDGET MANAGEMENT REGARDING LEGISLATION TO PREVENT APPLICATION OF IRS REVENUE RULING 83-3 TO THE CLERGY AND MILITARY

(S. 2017, BY SENATOR HELMS)
(S. 2519, BY SENATOR WARNER)
SEPTEMBER 26, 1984

MR. CHAIRMAN,

I WISH TO THANK YOU AND THE MEMBERS OF THIS SUBCOMMITTEE FOR INVITING CONGRESSMAN PARRIS AND ME TO TESTIFY ON AN ISSUE OF FUNDAMENTAL IMPORTANCE TO TWO OF THE MOST CRITICAL PROFESSIONS IN OUR SOCIETY--THE CLERGY AND THE MILITARY.

SENATOR HELMS, CONGRESSMAN PARRIS AND I HAVE ALL SPONSORED BILLS AND AMENDMENTS SEEKING TO BLOCK THE APPLICATION OF IRS REVENUE RULING 83-3 TO THE TAX FREE HOUSING ALLOWANCES OF THESE TWO GROUPS.

THIS HEARING REPRESENTS A MILESTONE IN EFFORTS TO OVERTURN THIS ILL-ADVISED RULING.

I AM HOPEFUL THAT FROM THIS HEARING WILL COME LEGISLATION WHICH FULLY ACHIEVES OUR OBJECTIVE.

REVENUE RULING 83-3 HAS PRODUCED GREAT FEAR AND CONFUSION WITHIN THE MILITARY AND CLERICAL COMMUNITIES.

AS PROMULGATED, THIS RULING ELIMINATES THE ITEMIZED DEDUCTION FOR INTEREST AND REAL ESTATE TAXES FOR MINISTERS WHO RECEIVE TAX-FREE HOUSING ALLOWANCES.

We now understand the Treasury Department has notified the Department of Defense that they have decided that 83-3 should be extended to cover all uniformed service personnel receiving housing allowances.

However, I also understand that, as of yesterday, the Office of Management and Budget would not approve that position, largely because of strong Department of Defense objections.

I fully support continuation of the pre-83-3 tax treatment in both cases; not on the grounds of special treatment, though that is, indeed, justified.

I support it because it is demonstrably more cost effective.

The Department of Defense estimates that if 83-3 is applied to members of the uniformed services, at least 270,000 military homeowners, at any time, will incur an additional tax burden equivalent to 4-6 percent of their pay.

The estimated revenue gain to the Treasury would be approximately $300 million.

Equity considerations and the potential impact on retention would virtually force us to restore the lost take-home pay.

Now, the figure we historically use for determining comparibility relative to civilian professions is the "Regular Military Compensation", or RMC.

I want to point out that RMC is defined by law as including tax advantages.

IF 83-3 WERE APPLIED TO THE MILITARY, THE ONLY WAY TO RESTORE RMC TO ITS PREVIOUS LEVEL OF COMPARABILITY, WOULD BE THROUGH A RAISE.

THERE IS NO WAY TO TARGET SUCH A RAISE TO HOMEOWNERS ONLY.

THUS, IT IS ESTIMATED THAT SUCH A PAY RAISE WOULD COST APPROXIMATELY $1.1 BILLION.

THAT WOULD MEAN A NET LOSS TO THE TREASURY OF $800 MILLION.

IT ALSO WOULD HAVE A GRAVE EFFECT ON MILITARY RETENTION, READINESS AND NATIONAL SECURITY.

AS GENERAL JOHN W. VESSEY, JR., CHAIRMAN OF THE JOINT CHIEFS OF STAFF, HAS STATED, "OUR MOST CONSERVATIVE PROJECTIONS INDICATE THAT THIS ACTION WOULD RESULT IN THE LOSS OF TENS OF THOUSANDS OF TRAINED CAREER OFFICERS AND ENLISTED PERSONNEL ESSENTIAL TO THE MAINTENANCE OF THE READINESS OF OUR FORCES."

HE CONCLUDED, "THIS REVENUE RULING ISSUE WILL CONTINUE TO TAKE ITS TOLL ON THE MORALE AND WELFARE OF SERVICE MEMBERS UNTIL IT IS FAVORABLY AND PERMANENTLY RESOLVED."

THIS IS THE MOST IMPORTANT PAY AND BENEFIT ISSUE OF IMMEDIATE IMPACT TO MILITARY PERSONNEL.

FAILURE TO RESOLVE IT PROMPTLY COULD HAVE MORE IMPACT ON RETENTION THAN ALMOST ANY OTHER PERSONNEL ISSUE.

EVERY DAY, HUNDREDS OF SERVICE PEOPLE ARE FORCED TO MAKE RENT-OR-BUY DECISIONS WITH THIS ISSUE HANGING OVER THEIR HEADS LIKE THE "SWORD OF DAMOCLES".

THE PROBLEM FOR THE CLERGY IS EQUALLY CRITICAL.

IN THE CASE OF THE CLERGY, THEIR SALARIES ARE PAID BY THE TAX-DEDUCTIBLE CONTRIBUTIONS OF THE MEMBERS OF THEIR RESPECTIVE CONGREGATIONS.

ANY LOSS TO THE MINISTER DUE TO ADDITIONAL TAXES HE MUST PAY DUE TO 83-3 WILL INEVITABLY BE MADE UP BY INCREASED CONTRIBUTIONS FROM MEMBERS OF THE CONGREGATION.

THESE CONTRIBUTIONS ARE, OF COURSE, DEDUCTIBLE AND MUST BE GREATER THAN THE AFTER TAX NET TO THE MINISTER, SINCE THE ALLOWANCE HE RECEIVES WILL NOW BE, EFFECTIVELY, TAXABLE.

AS A RESULT, THE NET EFFECT FOR THE TREASURY, IN THE CASE OF THE CLERGY, COULD ALSO BE A LOSS.

MR. CHAIRMAN, I WISH TO REITERATE THAT RETAINING THE CURRENT TAX TREATMENT WILL ADD NO NEW COSTS TO THE BUDGET.

IN FACT, AS EXPLAINED ABOVE AND IN MY STATEMENTS IN THE CONGRESSIONAL RECORD, PROHIBITING IMPLEMENTATION OF THE HOUSING ALLOWANCE ASPECTS OF 83-3 FOR BOTH THE CLERGY AND THE MILITARY WILL UNDOUBTEDLY AVOID A FUTURE NET LOSS TO THE TREASURY.

MR. CHAIRMAN, IN ORDER TO PROVIDE OTHER WITNESSES AMPLE OPPORTUNITY TO TESTIFY, I SUBMIT FOR THE RECORD COPIES OF PORTIONS OF THE CONGRESSIONAL RECORD CONTAINING:

FIRST, MY AMENDMENT ADOPTED BY THE SENATE IN THE OMNIBUS DEFENSE AUTHORIZATION ACT OF 1985 AND STATEMENTS BY SENATOR HELMS AND ME THAT EXPLAIN IN DETAIL THE VITAL NEED FOR THIS PROVISION;

SECOND, SENATE DEBATE ON THIS ISSUE DURING CONSIDERATION OF THE DEFICIT REDUCTION ACT, WHICH PROVIDES ADDITIONAL DETAIL AND ANALYSIS; AND

FINALLY, MY STATEMENT AT THE INTRODUCTION OF S. 2519, MY BILL TO BLOCK THE APPLICATION OF 83-3 TO MILITARY AND CLERGY HOUSING ALLOWANCES.

I ALSO SUBMIT A COPY OF A LETTER FROM GENERAL JOHN W. VESSEY, JR., CHAIRMAN OF THE JOINT CHIEFS OF STAFF, PROVIDING, AS THE UNIFORMED MILITARY ADVISOR TO THE COMMANDER-IN-CHIEF, HIS ASSESSMENT OF THE POTENTIAL IMPACT OF 83-3.

LASTLY, I SUBMIT A COPY OF A LETTER FROM THE SECRETARY OF DEFENSE TO THE SECRETARY OF THE TREASURY, WHICH DETAILS HIS OPINION REGARDING THE EFFECT 83-3 WOULD HAVE.

MR. CHAIRMAN, THIS HEARING TO RECEIVE TESTIMONY ON SENATOR HELMS' BILL, S. 2017, AND MY BILL, S. 2519, IS OF TREMENDOUS SIGNIFICANCE TO OUR MILITARY PERSONNEL, OUR CLERGY, THE FAMILIES OF BOTH GROUPS, AND TO MANY OTHERS IN COMMUNITIES THROUGHOUT THE UNITED STATES.

I HOPE THE COMMITTEE WILL ACT FAVORABLY AND PROMPTLY ON THIS ISSUE.

THANK YOU.

DEPARTMENT OF DEFENSE
UNITED STATES OF AMERICA

THE JOINT CHIEFS OF STAFF
WASHINGTON D.C. 20301

JCSM-213-84
22 June 1984

The Honorable John G. Tower
Chairman, Committee on Armed Services
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman,

Thank you for your past support, both in the Congress and with the Administration, in opposing the possible application of IRS Revenue Ruling 83-3 to military housing allowances. During the Conference on the FY 1985 Defense Authorization Bill, we ask your continued support for a provision that would provide permanent relief from this ruling.

Over the past year, the Department of the Treasury has been evaluating the possible application of IRS Revenue Ruling 83-3 to military personnel. This ruling would require a military homeowner to reduce tax deductions by the amount of nontaxable housing allowances received. This would be in contrast to the longstanding congressional intent of nontaxable allowances for the military and would have a severe financial impact on Service members.

If the ruling is implemented, over 272,000 military homeowners would face tax increases that would result in an estimated loss of income of $300 million annually. This is equivalent to a 4- to 6-percent reduction in pay, and 80 percent of those affected would be in grades O-3 or below. Our most conservative projections indicate that this action would result in the loss of tens of thousands of trained career officers and enlisted personnel essential to the maintenance of the readiness of our forces. Loss of these military members would have an adverse impact on experience levels and would degrade US combat capability.

This issue has generated a great deal of concern among Service members. It represents a potential additional erosion in military compensation, compounding the effects of successive pay caps, freezes on housing allowances, reduced cost-of-living-allowance adjustments for retirees, and threats to most other elements of military compensation. This revenue ruling issue will continue to take its toll on the morale and welfare of Service members until it is favorably and permanently resolved.

Therefore, the Joint Chiefs of Staff urge your continued support in behalf of US Service members by insuring that this provision, contained in the Senate Defense Authorization Bill, is passed into law.

For the Joint Chiefs of Staff:

John W Vessey

JOHN W. VESSEY, JR.
Chairman
Joint Chiefs of Staff

THE SECRETARY OF DEFENSE
WASHINGTON, THE DISTRICT OF COLUMBIA

12 JUL 1983

Honorable Donald T. Regan
Secretary of the Treasury
Washington, D.C. 20220

Dear Don:

I am writing to ask your assistance in a matter of major concern to the men and women of our career military force. In particular, I ask that you ensure that the Internal Revenue Service (IRS) not proceed with a further change in tax policy that would substantially reduce take-home pay for military careerists.

Revenue Ruling 83-3 and its supporting legal opinion (Enclosed) have caused alarm and confusion within the military community. Although that final ruling applied only peripherally to our men and women in uniform, actions based on the legal opinion could work greatly to their detriment.

Specifically, the IRS proposed eliminating the itemized deduction for interest and real estate taxes to the extent that the servicemember receives tax-free military housing allowances (Basic Allowance for Quarters (BAQ) and Variable Housing Allowances (VHA). I am advised that the proposal is being held in abeyance only temporarily. Ostensibly, the reason provided by the IRS for this result was that Revenue Ruling 83-3 was issued to update existing rules and no ruling had ever been issued pertaining to tax-free military housing allowances. However, the reports indicated, and we confirmed, that individual IRS tax auditors were granted the authority, even without a ruling, to deny these interest and real estate tax deductions to military members who use BAQ and VHA to provide homes for themselves.

I am very concerned with the adverse effect on morale, retention, and budgetary actions that may be generated within the career military force as a result of this matter. Military housing allowances represent a long-standing tradition of American military service. The allowances are, as the name implies, provided in lieu of government provided housing. Since 1974 the allowances have been included specifically by statute (37 U.S.C. § 101(25)) as an element of Regular Military Compensation (RMC) along with the "Federal tax advantage accruing to the aforementioned allowances because they are not subject to Federal income tax." RMC, which provides a better total pay picture, is then used in conjunction with other factors in determining changes in rates of pay and allowances required to remain competitive with the civilian sector. Congress is well aware that servicemembers who live in their homes enjoy the benefit of deducting interest and taxes on those homes. We and the Congress closely examine military compensation every year to ensure fairness to the servicemember and the taxpayer. The IRS has long respected this practice. In sum, what may now appear to be an anomaly to some tax professionals, has a clear history of Executive and Legislative approval.

Implementation of a change in IRS policy in this regard will be construed as a further erosion of benefits, represent for many a substantial reduction in net pay, and create a real inequity among members. For instance, where a military member owns a home but does not live in it due to assignment to government or leased quarters, the member would be entitled to the full deduction for interest and real estate taxes on the home he owns. However, if the member were to move back into that home he would lose the deduction to the extent of tax-free allowances received to provide a home. I do not believe that further aggravating the already more arduous life of our uniformed personnel and their families by such an illogical result is in the best interests of the nation.

Even the public discussion of implementing such a proposal has had and will continue to have an adverse effect on morale in the career force. At a time when we are beginning to realize the successes of a total volunteer force and expending large sums of money to recruit and retain quality personnel, I believe it very shortsighted to jeopardize those efforts by applying a new policy that would have inequitable and harmful results. Additionally, allowing innuendos to stand that, although the policy with regard to military personnel and housing allowances has not changed, individual auditors have the authority to deny the deductions, will have similar results. In view of the foregoing, I consider it imperative that this matter promptly be put to rest.

While this problem could be resolved by reallocating a sufficient portion of the DoD budget to offset the effect of the tax increase, there are two obvious shortcomings to such an approach. First, such a reallocation is not solely a matter of Executive discretion. Second, the cost to the Government would significantly exceed the potential savings that would result from eliminating the deduction. Thus, the proposed tax policy change is as harmful to budgetary interests as it is to military morale and retention.

Accordingly, I request a clear statement or ruling be issued to the effect that preexisting policy will not change and any individual actions inconsistent with that policy are inappropriate. I also would hope that before again considering such a volatile change to existing policy, we will be given the opportunity to discuss the matter substantively with you or members of your Department. I am sure you share my view that those who bear the principal burden of the nation's defense should not suffer this reduction in pay without the agreement of the Congress and their Commander-in-Chief.

Sincerely,

firmly established under current practice, State and local governments do not now have the protection that would be provided by enactment of this loan forgiveness provision.

Mr. President, in conclusion I reiterate my support of the bill and commend it to my colleagues.●

By Mr. WARNER (for himself, Mr. TOWER, Mr. GOLDWATER, Mr. JEPSEN, Mr. TRIBLE, and Mr. THURMOND):

S. 2519. A bill to amend the Internal Revenue Code of 1954 with respect to deductions for certain expenses incurred by a member of a uniformed service of the United States, or by a minister, who receives a housing or subsistence allowance; to the Committee on Finance.

DEDUCTION FOR PAYMENT OF TAX DEDUCTIBLE HOUSING EXPENSES BY MINISTERS AND MEMBERS OF THE UNIFORMED SERVICES

● Mr. WARNER. Mr. President, today I am introducing legislation, cosponsored by Senators TOWER, GOLDWATER, JEPSEN, TRIBLE, and THURMOND, which would amend the Internal Revenue Code of 1954 in order to protect the total compensation packages of two of the most dedicated and worthy groups in our society: Military personnel and ministers. This bill is an identical companion to H.R. 4548, introduced in the House by my good friend and Virginia colleague, Congressman STAN PARRIS.

The Treasury Department recently approved and then delayed, until January 1985, implementation of a revenue ruling that would require members of the clergy to reduce their deductions for tax deductible housing expenses to the extent they are covered by tax-free allowances. The Internal Revenue Service is now reviewing a proposed revenue ruling that would impose the same requirement on military personnel. Revenue rulings dating back to the early 1960's had confirmed the deduction procedures which cover the clergy and the military. Although this legislation is applicable to taxable years beginning after December 31, 1982, the IRS should not construe that they can apply the current rulings retroactively to taxes paid prior to that date.

Mr. President, both these rulings will have a disastrous impact on the volunteer careers of those in the clergy or military service. Both groups have historically received modest pay. Traditionally, the Congress has provided nondenominational recognition to religious service in general by providing certain tax advantages to places of worship and clergy. All denominations are well aware of that tax benefit when they calculate the total package of compensation they provide for their ministers. Depriving them of this modest concession will only put a new burden on the already severely strained budgets of many small churches and denominations as they struggle to make up the losses.

Likewise, tax advantages are a very real and intentional part of the total compensation package we provide our military personnel. Indeed, they provide a very efficient and cost-effective means to offset some of the undesirable facts of military service. Military personnel are frequently required to move involuntarily, with no compensation for real estate expenses, a benefit commonly available to employees in the private sector in similar circumstances. The military may be required to relocate to high-cost areas, such as the Washington metropolitan area, where they find little or no Government housing available for them. Their moving expenses are generally not fully reimbursed. They face frequent and prolonged family separations. Their working conditions are frequently undesirable and hazardous. They live each day knowing that they could be called on with little notice to combat areas where they will be expected to risk their very lives for us.

Tax-free allowances such as the basic allowance for quarters and the variable housing allowance, allow us to address the special housing needs of our military personnel in the most cost-effective manner. With separate allowances, as opposed to basic pay, the needs and even variations in costs from region to region can be targeted. Making such military allowances tax free reduces the amounts Congress must appropriate to provide fairly for the targeted expenses.

Implementation of either ruling could have serious financial consequences for the affected group, especially in high-cost areas. Because the individuals affected often calculate their tax savings in determining the housing they can afford or, in many areas, must do so to be able to buy at all, it is conceivable that these rulings could actually drive some into bankruptcy. Yet, the total gain to the U.S. Treasury, though not calculated yet by the IRS or Treasury Department, is estimated by them to be relatively small.

The more insidious aspect for both groups will be the adverse impact on morale and retention. For the military in particular, this is only one more example of erosion of their benefits. The resulting influence on retention is difficult to quantify but obviously negative.

Two other large groups stand to be adversely impacted by these rulings. Homebuilders in many areas, especially where there are large concentrations of service people, tend to rely greatly on home purchasing by military people. Realtors in those same areas recognize that the steady turnover of service families and the advantages of homeownership lead to a steady base of business for them. Implementation of these rulings will make homeownership much less desirable and perhaps not cost effective when the short-term ownership mandated by frequent moves is considered.

Just as the churches would face the prospect of having to raise the pay of their clergy to offset the loss to total compensation caused by these IRS rulings, so would the Congress have to raise the basic pay of our service people to correct the damage that would be done to their total compensation package. However, raising basic pay to address the compensation loss for some, would create a windfall increase in disposable income for others not affected by the ruling. Indeed, that is why I have described the current system of tax-free allowances as efficient and cost-effective tools for addressing the housing needs of all our Armed Forces personnel who do not reside in Government quarters.

Mr. President, the Congress traditionally has recognized that, based on the many sacrifices military people make, it is proper to grant them benefits not available to the civilian populace. The Congress also traditionally has recognized a similar situation for the clergy.

I urge our colleagues to join us in supporting this legislation to make explicit the intent we have already expressed.●

By Mr. PRESSLER:

S. 2520. A bill to provide authorization of appropriations for the U.S. Travel and Tourism Administration, and for other purposes; to the Committee on Commerce, Science and Transportation.

INTERNATIONAL TRAVEL ACT OF 1961 AUTHORIZATION ACT OF 1984

Mr. PRESSLER. Mr. President, I am very pleased to introduce legislation today to reauthorize the U.S. Travel and Tourism Administration (USTTA) for fiscal year 1985.

The USTTA, and its predecessor, the U.S Travel Service, have in recent years faced not only budget cuts, but threats against the very existence of a Federal commitment to our travel and tourism industry. This has been a most unfortunate situation, because at the same time we reduced our national tourism promotion efforts, our chief competitors strengthened their national commitments to travel and tourism.

As recently as 1981, most Western nations spent between three and five times as much on tourism promotion as the United States. It is no wonder that our share of the international travel market has dropped from a peak level of 13 percent in 1976 to about 10 percent. The drop translates to losses of billions of dollars and many thousands of jobs, losses we can ill afford, especially in troubled economic times.

Since the 1981 creation of the Commerce Committee's Subcommittee on Business, Trade, and Tourism, which I chair, have sought to reverse this decline in Federal support of travel and tourism. I am gratified that so many of my colleagues have joined me in

The Elkhart/Miles project fits perfectly within the committee category of property for which extraordinary levels of subsidy are necessary and fits perfectly as well within the committee intention to exempt those projects which also are underway—in this case going back to July 13, 1982, and to September 19, 1983. It does not fit perfectly in the committee definition of significant expenditures.

To overcome these minor problems, Mr. President, I am proposing that the Miles waste water treatment plant be included specifically in the table of projects listed in section 721(e)(2)(A) on page 903 for exemption from the industrial development bond limitations based on the type of project, the qualifying action, and the date of qualifying action. I believe such an amendment is consistent with the general intent of the Finance Committee with regard to IDB limitations. Mr. President, I understand Senator DOLE's amendment does list the Miles Laboratories project among those exempted from the new IDB limitations. I urge adoption of the amendment, so as to allow and facilitate the continued protection of the water supply in northern Indiana.●

Mr. DOLE. Is there objection to setting it aside?

The PRESIDING OFFICER. Is there objection to setting aside the amendment? Without objection, it is so ordered.

Mr. DOLE. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HEINZ). Without objection, it is so ordered.

Mr. DOLE. Mr. President, it is my understanding that we have a number of amendments now that we can start to work on. First is an amendment by the distinguished Senator from Virginia (Mr. WARNER) and the distinguished Senator from North Carolina (Mr. HELMS). The Senator from Indiana (Mr. QUAYLE) has two amendments to follow that. I am hoping that by that time, Senator BRADLEY, who has three amendments, will be available to offer those amendments.

That should reduce the number of amendments—I might say to the distinguished Senator from Mississippi, there is a whole conference going on on IDB's if he wants to join that conference. I do not think it involves the part he was particularly interested in.

That would give us some progress, and if we could start on those six or seven amendments, we may not have too many left. I am not certain we can finish tonight, but we can try.

AMENDMENT NO. 2945

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I send an amendment to the desk on behalf of myself and the Senator from North Carolina (Mr. HELMS) and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Virginia (Mr. WARNER), for himself, Mr. HELMS, and Mr. EAST, proposes an amendment numbered 2945.

Mr. WARNER. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1137, strike out lines 11 through 23, and insert in lieu thereof the following:

SEC. 870. DEDUCTIONS FOR CERTAIN EXPENSES INCURRED BY A MEMBER OF A UNIFORMED SERVICE, OR BY A MINISTER, WHO RECEIVES A HOUSING OR SUBSISTENCE ALLOWANCE.

(a) IN GENERAL.—Paragraph (1) of section 265 (denying a deduction for payment of certain expenses relating to tax-exempt income) is amended by adding at the end thereof the following sentence: "This section shall not apply with respect to any income of a member of a uniformed service (within the meaning given to such term by section 101(3) of title 37, United States Code) in the form of a subsistence allowance or a quarters or housing allowance, or to income excluded from gross income of the taxpayer under section 107 (relating to rental value of parsonages).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1982.

Mr. WARNER. Mr. President, I am offering this amendment together with my distinguished colleague from North Carolina. It embraces the legislative goals established in S. 2519, a bill that I have introduced to amend the Internal Revenue Code of 1954 in order to protect the compensation now received by two of the most dedicated and worthy professional groups in our society; namely, military personnel and clergy.

Many of my distinguished colleagues fully appreciate that the Treasury Department recently approved, and then delayed until January 1985, implementation of a revenue ruling that would require members of the clergy to reduce their deductions for tax-deductible housing expenses to the extent that they are covered by tax-free allowances. Section 870 of the pending bill effectively delays implementation of this with respect to the clergy until 1986.

I have information to the effect that the Internal Revenue Service is about to issue a proposed ruling that would impose similar requirements on tax-free housing allowances to military personnel.

Revenue rulings dating back to the early sixties had confirmed the deduction procedures now protecting the clergy and the military. My amendment effectively leaves this situation status quo for the military and heads off any possible ruling by IRS.

Mr. President, such rulings will have a disastrous impact on the volunteer careers of those in the clergy and military service. Both groups have historically received modest pay. Traditionally, the Congress has provided nondenominational recognition to religious service in general by providing certain tax advantages to places of worship and clergy. All denominations are well aware of that tax benefit when they calculate the total package of compensation they provide for their ministers. Depriving them of this modest concession will only put a new burden on the already severely strained budgets of many small churches and denominations as they struggle to make up the losses.

Likewise, tax advantages are a very real and intentional part of the total compensation package we provide our military personnel. Indeed, they provide a very efficient and cost-effective means to offset some of the hardship aspects of military service. Military personnel are frequently required to move involuntarily, with no compensation for real estate expenses, a benefit commonly available to employees in the private sector in similar circumstances. The military may be required to relocate to high-cost areas, such as the Washington metropolitan area, where they find little or no Government housing available for them. Their moving expenses are generally not fully reimbursed. They face frequent and prolonged family separations. Their working conditions are frequently hazardous. They live each day knowing that they could be called on with little notice to combat areas where they will be expected to risk their very lives for us.

Tax-free allowances such as the basic allowance for quarters and the variable housing allowance, allow us to address the special housing needs of our military personnel in the most cost-effective manner. With separate allowances, as opposed to basic pay, the needs and even variations in costs from region to region can be targeted. Making such military allowances tax free reduces the amounts Congress must appropriate to provide fairly for the targeted expenses.

Mr. President, the Armed Services Committee of the Senate under the leadership of the distinguished Senator from Mississippi, who is present on the floor, and then under the leadership of the distinguished Senator from Texas, has effectively worked over the past 4 years to raise that total package of compensation and allowances to military personnel so that it is beginning to equate to what they might expect if they chose a career in the private sector. This advancement is dramatically reflected in the quality of individuals coming into the military today and, indeed, in the higher and evergrowing rate of retention of our most valuable military personnel.

To allow the Internal Revenue Service to promulgate a ruling comparable to that which has been applied to the clergy would have a disastrous effect on the progress that this body and, indeed, the House working together have provided in legislative measures in the past 4 years. So we would be moving in a backward direction at the very time when we are trying to hold ground for the military.

Implementation of either ruling could have serious financial consequences for the affected group, especially in high-cost areas. Because the individuals affected often calculate their tax savings in determining the housing they can afford or, in many areas, must do so to be able to buy at all, it is conceivable that these rulings could actually drive some into bankruptcy. Yet, the total gain to the U.S. Treasury, though not calculated yet by the IRS or Treasury Department, is estimated by them to be relatively small.

The more insidious aspect for both groups will be the adverse impact on morale and retention. For the military in particular, this is only one more example of erosion of their benefits. The resulting influence on retention is difficult to quantify but obviously negative.

Two other large groups stand to be adversely impacted by these rulings. Homebuilders in many areas, especially where there are large concentrations of service people, tend to rely greatly on home purchasing by military people. Realtors in those same areas recognize that the steady turnover of service families and the advantages of homeownership lead to a steady base of business for them. Implementation of these proposed IRS rulings will make homeownership much less desirable and perhaps not cost effective when the short-term ownership mandated by frequent moves is considered.

Just as the churches would face the prospect of having to raise the pay of their clergy to offset the loss to total compensation caused by these IRS rulings, so would the Congress have to raise the basic pay of our service people to correct the damage that would be done to their total compensation package. However, raising basic pay to address the compensation loss for some, would create a windfall increase in disposable income for others not affected by the ruling. Indeed, that is why I have described the current system of tax free allowances as efficient and cost-effective tools for addressing the housing needs of all our Armed Forces personnel who do not reside in Government quarters.

Mr. President, the Congress traditionally has recognized that, based on the many sacrifices military people make, it is proper to grant them benefits not available to the civilian populace. The Congress also traditionally has recognized a similar situation for the clergy.

Failure to act now or merely extending the deadline, as section 870 currently does for ministers, will leave these two groups in a form of limbo, wondering when the ax will fall. I urge my colleagues to join me in supporting this legislation to make explicit the intent we have already expressed.

Mr. President, at this time I should like to yield to my distinguished colleague from North Carolina.

The PRESIDING OFFICER (Mr. ANDREWS). The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, I thank the Chair and, of course, I thank my distinguished friend from Virginia.

This is one of those cases, Mr. President, where Senator WARNER and I had virtually the same amendment prepared and ready to go. Upon discovering that he was thinking along the same lines that I have been working, I suggested we combine our efforts and not require the Senate to have to consider essentially the same issue twice.

Mr. President, what we are really talking about is a tax increase, not enacted by the Congress, but ordered by the Internal Revenue Service just by changing the regulations. They are proposing, in the case of ministers and according to the information available to me members of the armed services, to impose a higher tax.

Now, Mr. President, that is the duty of the Congress, not the Internal Revenue Service.

The Warner-Helms amendment would maintain the status quo for ministers and members of the uniformed services, who receive housing allowances, with respect to the deductibility of interest and taxes paid on a personal residence. Current and planned administrative actions by the IRS now threaten the full deductibility of these items, which have been available to ministers and military personnel for years. In substance, this amendment incorporates the provisions of my bill, S. 2017, which was introduced in October, 1983.

Mr. President, in early 1983 the IRS published Revenue Ruling 83-3. In part, this ruling provides that ministers may no longer deduct interest and taxes paid on a personal residence to the extent the amounts expended are allocable to tax-exempt income. It has been scheduled to take effect in stages, with all parts becoming operable by January 1, 1985.

Since the publishing of Revenue Ruling 83-3, the IRS has also indicated that it is likely to make the ruling applicable to military personnel as well as ministers. This prospect has produced severe concern on the part of members of the armed services who see its chief effect on them as, in essence, a pay cut.

Mr. President, it is common practice in the United States for a minister to be given a housing allowance by his church. Under section 107 of the Internal Revenue Code this allowance is excludable from the minister's gross income. Up to now ministers have, fully within the letter of the law, deducted interest and taxes from their income just like other taxpayers. In their case, however, this deduction has an additional benefit because some of their compensation, in the form of a housing allowance, is exempted from gross income by section 107. With Revenue Ruling 83-3, making a new application of section 265, the IRS is attempting to diminish the benefit of section 107 to the clergy.

Mr. President, some would question even whether the IRS should be making, on its own, what appears to be an outright change in substantive law. In any event, this amendment would prevent the IRS from enforcing Revenue Ruling 83-3 and would leave in place the status quo on housing allowance tax deductions for the clergy.

Traditionally, Congress has tried to promote religion by refraining from taxing religious activities and by providing certain tax benefits for those involved in religious activities. We provide these tax benefits because of the longstanding recognition by the American people that Government exists to serve the common good of society. Government is the servant, not the master, of the people. Therefore, it is perfectly proper for the Government to give preferred status to certain institutions in society for the public good. Religion certainly occupies such a place in American society.

Mr. President, with respect to the military, it has long been the practice to provide members of the uniformed services with appropriate housing or with a housing allowance where appropriate housing has been unavailable. The granting of subsistence and housing allowances, separate and apart from actual pay, has been the traditional method for compensating members of the armed services and has been provided for either by regulation or by statute. It is codified today in title 37 of the United States Code.

Allowances paid to our military personnel traditionally have been recognized as being exempt from taxation. Both the courts and the Internal Revenue Service have held that subsistence and housing allowances are not items of income. For many years the Internal Revenue Service's regulations specifically have provided that subsistence and housing allowances need not be included in the income tax returns of members of the uniform services. Up to now, members of the Armed Forces have, fully within the letter of the law, deducted interest and taxes on their personal residences just like other taxpayers.

As with ministers, prior to Revenue Ruling 83-3, members of the uniformed services have received an additional benefit when taking such deductions because some of their compensation, in the form of housing and subsistence allowances, is exempted from gross income. In Revenue Ruling 83-3, the IRS has attempted to diminish the benefit available to the clergy. In internal memoranda and public statements, the IRS has expressed approval of another administrative action which similarly would diminish the benefit available to members of our Armed Forces.

Mr. President, the sole and simple purpose of this amendment is to maintain the status quo that has existed over many years for ministers and military personnel with respect to the tax treatment of benefits arising out of their customary housing allowances.

Mr. President, I urge my colleagues to support this amendment.

Mr. WARNER. Mr. President, by way of corroboration of the position taken by the distinguished Senator from North Carolina and myself, I should like to include in the RECORD a letter from the Secretary of Defense dated July 12, 1983, addressed to the Secretary of the Treasury, in which the Secretary of Defense endeavors to prevail on the Secretary of the Treasury not to promulgate a regulation comparable to Revenue Ruling 83-3 which would impact on the military.

I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF DEFENSE,
Washington, D.C., July 12, 1983.

Hon. DONALD T. REGAN,
Secretary of the Treasury,
Washington, D.C.

DEAR DON: I am writing to ask your assistance in a matter of major concern to the men and women of our career military force. In particular, I ask that you ensure that the Internal Revenue Service (IRS) not proceed with a further change in tax policy that would substantially reduce take-home pay for military careerists.

Revenue Ruling 83-3 and its supporting legal opinion (Enclosed) have caused alarm and confusion within the military community. Although that final ruling applied only peripherally to our men and women in uniform, actions based on the legal opinion could work greatly to their detriment.

Specifically, the IRS proposed eliminating the itemized deduction for interest and real estate taxes to the extent that the servicemember receives tax-free military housing allowances (Basic Allowance for Quarters (BAQ) and Variable Housing Allowances (VHA). I am advised that the proposal is being held in abeyance only temporarily. Ostensibly, the reason provided by the IRS for this result was that Revenue Ruling 83-3 was issued to update existing rules and no ruling had ever been issued pertaining to tax-free military housing allowances. However, the reports indicated, and we confirmed, that individual IRS tax auditors were granted the authority, even without a ruling, to deny these interest and real estate tax deductions to military members who use BAQ and VHA to provide homes for themselves.

I am very concerned with the adverse effect on morale, retention, and budgetary actions that may be generated within the career military force as a result of this matter. Military housing allowances represent a long-standing tradition of American military service. The allowances are, as the name implies, provided in lieu of government provided housing. Since 1974 the allowances have been included specifically by statute (37 U.S.C. § 101(25)) as an element of Regular Military Compensation (RMC) along with the "Federal tax advantage accruing to the aforementioned allowances because they are not subject to Federal income tax." RMC, which provides a better total pay picture, is then used in conjunction with other factors in determining changes in rates of pay and allowances required to remain competitive with the civilian sector. Congress is well aware that servicemembers who live in their homes enjoy the benefit of deducting interest and taxes on those homes. We and the Congress closely examine military compensation every year to ensure fairness to the servicemember and the taxpayer. The IRS has long respected this practice. In sum, what may now appear to be an anomaly to some tax professionals, has a clear history of Executive and Legislative approval.

Implementation of a change in IRS policy in this regard will be construed as a further erosion of benefits, represent for many a substantial reduction in net pay, and create a real inequity among members. For instance, where a military member owns a home but does not live in it due to assignment to government or leased quarters, the member would be entitled to the full deduction for interest and real estate taxes on the home he owns. However, if the member were to move back into that home he would lose the deduction to the extent of tax-free allowances received to provide a home. I do not believe that further aggravating the already more arduous life of our uniformed personnel and their families by such an illogical result is in the best interests of the nation.

Even the public discussion of implementing such a proposal has had and will continue to have an adverse effect on morale in the career force. At a time when we are beginning to realize the successes of a total volunteer force and expending large sums of money to recruit and retain quality personnel, I believe it very shortsighted to jeopardize those efforts by applying a new policy that would have inequitable and harmful results. Additionally, allowing innuendos to stand that, although the policy with regard to military personnel and housing allowances has not changed, individual auditors have the authority to deny the deductions, will have similar results. In view of the foregoing, I consider it imperative that this matter promptly be put to rest.

While this problem could be resolved by reallocating a sufficient portion of the DoD budget to offset the effect of the tax increase, there are two obvious shortcomings to such an approach. First, such a reallocation is not solely a matter of Executive discretion. Second, the cost to the Government would significantly exceed the potential savings that would result from eliminating the deduction. Thus, the proposed tax policy change is as harmful to budgetary interests as it is to military morale and retention.

Accordingly, I request a clear statement or ruling be issued to the effect that preexisting policy will not change and any individual actions inconsistent with that policy are inappropriate. I also would hope that before again considering such a volatile change to existing policy, we will be given the opportunity to discuss the matter substantively with you or members of your Department. I am sure you share my view that those who bear the principal burden of the nation's defense should not suffer this reduction in pay without the agreement of the Congress and their Commander-in-Chief.

Sincerely,

CAP.

(Mr. HEINZ assumed the chair.)

Mr. HELMS. Mr. President, if the Senator will yield, who is the author of the letter?

Mr. WARNER. I have a second letter. This letter, I think, would have considerable impact on particularly the manager of the bill. It is dated December 5, 1983. Senator HELMS has a copy. What is the signature on that letter?

Mr. HELMS. A very distinguished American from North Carolina. Her name is Elizabeth Hanford Dole.

Mr. WARNER. Her letter is addressed to the Honorable Donald T. Regan, Secretary of the Treasury. It also petitions the Secretary of the Treasury not to promulgate the regulation, on behalf of the men and women of the Coast Guard.

Mr. DOLE. She has not petitioned the chairman of the Finance Committee.

Mr. WARNER. She has authorized the two Senators now standing to make that petition.

Mr. President, I ask unanimous consent to have the letter from Secretary of Transportation Dole printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., December 5, 1983.

Hon. DONALD T. REGAN,
Secretary of the Treasury,
Washington, D.C.

DEAR DON: I have been informed that the Internal Revenue Service may be considering a reversal of its long standing policy that military personnel may take the itemized deduction for home mortgage interest and real estate taxes, even though they receive a tax-free Basic Allowance for Quarters and Variable Housing Allowance. Secretary Weinberger has already written you expressing, on behalf of the men and women of our career military force, his objection to such a change in policy.

On behalf of the men and women of our military force who are members of the U.S. Coast Guard, I share the views of Secretary Weinberger on this important matter. While some may perceive the current treatment as an anomaly in the enforcement of the tax laws, it dates from 1925. Our armed forces personnel have come to rely upon it. I therefore ask that the current treatment of these expenses be continued, if not further affirmed, in an appropriate guide to IRS personnel.

Our military people move frequently. The ones who buy homes, therefore, generally have new, high payment mortgages and are often very close to the line separating those who can buy from those who cannot. A reduction in effective pay, such as the one under consideration by the IRS, could result in an inability of some to make current mortgage payments. It would also adversely affect those considering homeownership by lowering the amount of the mortgages for which they qualify. Presumably, this would be a factor in retention of experienced personnel since they are the ones most often in the homeownership category.

The Congress takes into account the tax-free nature of these allowances and the deductability of these expenses in computing military pay. Changing this long standing treatment for military personnel could well prompt the Congress to react with either a legislative repair or an increase in pay to account for this obvious loss in effective pay. Assuming Congress were to act favorably, any gain to the Treasury would be nullified.

Since this initiative of the Internal Revenue Service threatens the morale of our armed forces personnel, I believe that it should receive thorough consideration within the administration before it is implemented.

With best wishes.

Sincerely,

ELIZABETH HANFORD DOLE.

Mr. DOLE. Mr. President, I say to my friends that I became aware of this about 6 weeks ago. I was making a speech downtown somewhere, and a minister approached me afterward and told me about the treatment—in his case, mistreatment, as he described it—and gave me a memo, and I proceeded to take it up with the committee.

What we did was to extend for 1 year, until January 1, 1986, the January 1, 1985, transitional rule applicable to certain ministers in the circumstances we find in this IRS 83-100. At that time, we did not even contemplate that it might be done on the military side.

It seems to me that this is an area we should explore in the committee. I would be willing to direct a letter to the Internal Revenue Service—I think I might be joined by my distinguished colleague Senator LONG—to indicate not to move in this area until we have had a chance for a thoroughgoing hearing in the Senate Finance Committee.

Senator GRASSLEY is chairman of that subcommittee, and I am certain he will cooperate.

I hope that would satisfy the concerns of the Senators.

Mr. WARNER. Mr President, I also should like to draw to the attention of the distinguished managers of the bill the language found in title 37, U.S. Code, in which there is a definition of regular compensation in section 101(25). It reads, after enumerating the various forms of compensation to be received by military personnel:

> . . . Federal tax advantages accruing to aforementioned allowances because they are not subject to Federal income tax.

Further, the standard form utilized by the Department of Defense in informing members of the military service of their compensation package, as directed by the Congress, has specific references to Federal tax advantages. It points out that quarters and separation allowances are not subject to Federal taxes.

A ruling on the military comparable to 83-3 would be directly in controvention of existing law in title 37 and the instructions provided our military personnel.

So this is a matter of enormous and serious consequence to the military, and I am reluctant to have hanging over their heads, even for this extended period, the threat of having part of their compensation subject to Federal tax.

What dates did the distinguished manager have in mind with reference to this? I assume that they will treat the military and the clergy in similar fashion.

Mr. DOLE. If we were certain there would be some action on the part of the military, what we might do is draft an amendment, and each would have the same 1-year extension, so that it would not impose any ruling during that period of time. That would be helpful as a stopgap and would give us until January 1, 1986—the balance of this year and all of next year—to have an appropriate determination on this issue. We might be able to come up with an amendment of that kind. In other words, no change would be effective before January 1, 1986.

Mr. HELMS. Mr. President, I need to consult with the distinguished Senator from Kansas and the distinguished Senator from Virginia. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I ask unanimous consent that the pending amendment be set aside temporarily so that we might take up an amendment by the distinguished Senator from Georgia (Mr. NUNN).

The PRESIDING OFFICER. Is there objection to setting aside the pending amendment of the Senator from Virginia? The Chair hears none, and it is so ordered.

AMENDMENT NO. 2946

Mr. NUNN. Mr. President, I have discussed this amendment with the chairman and the ranking minority member of the Finance Committee, Senator DOLE and Senator LONG. This amendment, that I will send to the desk shortly, strikes out the words "in taxable years beginning after December 31, 1984" and inserts in lieu thereof "after the date of enactment of this act."

This deals with the particular section on private foundations, and the effect of this amendment would be simply to make the effective date of this substantive change making gifts to private foundations the same as the gifts to public foundations. That is already in the bill, and this amendment would simply make the effective date of that the date of enactment rather than January 1, 1985, as is presently in the bill.

I have discussed this with the Senator from Kansas and with the Senator from Louisiana, and it is my hope and belief that they will accept this amendment.

So I send the amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

> The Senator from Georgia (Mr. NUNN) proposes an amendment numbered 2946.
>
> On page 689, line 2 and 3, strike out "in taxable years beginning after December 31, 1984" and insert in lieu thereof "after the date of enactment of this Act".

Mr. NUNN. Mr. President, under current law, the income tax treatment of contributions by an individual to private nonoperating—that is grantmaking—foundations generally is less favorable than the treatment of contributions to public charities and private operating foundations. Contributions of cash and ordinary income property to public charities or private operating foundations are deductible up to 50 percent of the donor's adjusted gross income. For contributions of certain capital gain property, the limitations is 30 percent.

In contrast, contributions to private nonoperating foundations generally are deductible only up to 20 percent of the donor's adjusted gross income. In addition, donors of appreciated property to public charities and private operating foundations may deduct—subject to the 30 percent individual limitation—the full fair market value of the property. On the other hand, the amount deductible for gifts to private nonoperating foundations equals the asset's fair market value reduced by 40 percent of the unrealized appreciation—that is, the amount by which the value exceeds the donor's basis in the property. This discriminatory tax treatment has led to a reduction in donations to such private foundations.

The Senate Finance Committee recognized the inequity of current law and adopted, as part of their budget deficit reduction proposal, an amendment to eliminate tax disincentives for gifts to private nonoperating foundations by making the gifts deductible on the same basis as gifts to other charities. However, the Finance Committee proposal would not be effective until January 1, 1985.

In adopting the amendment to the charitable deduction rules, the Finance Committee acknowledged the substantial role which private nonoperating foundations play in private philanthropy. To carry out their charitable activities, such foundations need to have a solid financial resource base, and these resources have traditionally come from donations. There is no sound policy reason for continuing to deny equitable tax treatment for contributions to private nonoperating foundations until January 1, 1985. Therefore, to insure that needed resources are available to foundations, the elimination of tax disincentives for contributions to private nonoperating foundations should be effective upon enactment of the Finance Committee legislation.

Mr. President, again I emphasize my colleagues may be interested that this makes no substantive change in the committee bill. It is simply a date change so that the effective section of this dealing with private foundations and deductibility of gifts to private foundations would be on the date of enactment rather than January 1, 1985.

I hope the committee will accept and the Senate will accept this amendment.

Mr. METZENBAUM. Mr. President, will the Senator from Georgia yield?

The PRESIDING OFFICER. Is the Senator from Ohio seeking recognition?

Mr. METZENBAUM. Yes.

Mr. NUNN. I yield.

Mr. METZENBAUM. Will the Senator from Georgia be good enough to explain why it is important that the change be effective as of the date of enactment rather than January 1, 1985?

Mr. NUNN. It is obvious that there are people who would like to go ahead make sales, and what this relates to is the realized gain or nonrealized gain on gifts to foundations.

If you make a gift now of $20 million to a public charity, it is my understanding that there is no realized gain on that but if you make a gift to a private foundation, there is a realized taxable event. The tax is paid not on all of it—I believe it is on 60 percent—there already is a recognition.

So what the committee has done is to make a gift to a private foundation the same as gift to a public charity, and what this amendment does is make the effective date on enactment.

The obvious reason is that there are some people who have contacted me from my State of Georgia who would like to go ahead and make a sale this year and give away a good bit of money to a private foundation.

Mr. METZENBAUM. I am not quite clear why the sale aspect comes into it, since my understanding is that the provision we are talking about has to do with changing the proprietary or the deductibility of a gift to a private foundation to make it similar to a gift to a public foundation, and I do not understand the sales aspect.

Mr. NUNN. It does not have to be a sale. It is just a gift. If I used the word "sale," it should be the word "gift." A gift itself is the recognizable event in terms of the gift to a private foundation under the current law. That is being changed in the Finance Committee bill.

Mr. METZENBAUM. What would the tax impact be in 1984? What would be the impact upon the revenue.

Mr. NUNN. I do not know whether the committee has an estimate on that because in the particular case of the people who contacted me I am not sure there would be any impact at all because obviously anyone who wanted to wait—if this passes as it exists now—wanted to wait in order to take advantage of this Finance Committee provision would simply wait until after January 1, 1985. So I do not know how anyone can read the minds of whether the people are going to go ahead and make the gifts this year or whether they are not.

There is nothing retroactive about this amendment.

I defer to the Senator from Kansas.

Mr. DOLE. Mr. President, we understand that the joint committee estimate is it would be less than $5 million. I will get the exact figure.

Mr. METZENBAUM. Less than $5 million?

Mr. DOLE. Yes.

Mr. President, I understand this amendment has been cleared by the Senator from Louisiana and I have no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Georgia.

The amendment (No. 2946) was agreed to.

AMENDMENT NO. [illegible]

The PRESIDING OFFICER. The question now recurs on the amendment of the Senator from Virginia.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I inquire of the distinguished Senator from Kansas if he is near completion of the drafting of the amendment or would he like to set it aside?

Mr. DOLE. I advise the Senator from North Carolina that the drafters are hard at work. They are now in the process of finalizing the change, and it may be a moment or two.

Mr. HELMS. Why do we not set it aside and proceed with another amendment if it will take too long?

Mr. WARNER. Mr. President, will the Senator yield?

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina has the floor, as I understand it, and he yields to the Senator from Virginia for a question.

Mr. HELMS. Yes.

Mr. WARNER. Mr. President, the question is this. Will the Senator permit the distinguished Senator from Georgia (Mr. Mattingly) to join us as a cosponsor on this amendment?

Mr. HELMS. Certainly.

Mr. WARNER. We jointly propound that in the form of a unanimous-consent request.

Mr. HELMS. Mr. President, I ask unanimous consent that the Senator from Georgia (Mr. Mattingly) be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, it is my understanding that this amendment was going to be withdrawn. Am I now mistaken about that? Is it the intent to go forward with this amendment?

Mr. DOLE. Not with that amendment, I say to the Senator from Ohio.

Both Senator Helms and Senator Warner discussed this with me, and I suggested that the amendment be presented, that instead of seeking some permanent moratorium or not doing anything "until Congress acts" that we treat the military the same way the committee treated ministers who have a different application.

What we did in that case was to provide a 1-year extension. What we would say, in effect, is that before the IRS issues any rulings on this issue it cannot be done prior to January 1, 1986, and in the interim I promise both Senators that we could have a joint hearing with the Armed Services Committee and the Finance Committee prior to October 1. When we took up this matter in the committee, the only ones we felt involved were certain ministers. Now we are told that the same effort will be made insofar as military personnel are concerned, and I suggest that since we gave ministers a 1-year delay, we would do the same for the military.

That is the amendment that is now being drafted.

Mr. METZENBAUM. Is this the issue that has to do with the fact that ministers and now military would be receiving tax-free allowances for their residences and then be permitted to deduct the interest and taxes in connection with those same residences?

Mr. DOLE. Yes, essentially that is it, and this has been an ongoing dispute, I might add. I did have a memo about it about a month ago. I learned about it at a meeting where a minister got up and asked me the question. It has been an off-and-on dispute with the IRS as far as ministers are concerned for the past 15 to 20 to 30 years.

I am not certain the military question has ever been raised. But the Senator is substantially correct.

Mr. METZENBAUM. And it is the plan of the Finance Committee to have the ruling postponed for how long a period of time?

Mr. DOLE. One year. And during that time that will give us the balance of this year and next year to take some action. Obviously, some would not want to do anything. They do not want to change the status quo. I am suggesting we ought to hear it. We ought to hear from the IRS, from Treasury, and we ought to hear from the military. I have been told the Secretary of Transportation protests this because of the Coast Guard. So we have a number of people to hear from in this area. That is what I propose.

Mr. METZENBAUM. Is the chairman of the Finance Committee indicating that the Finance Committee does intend to take some action with respect to this matter and not merely provide a continued delay as far as the issue is concerned?

I must confess, I have some difficulty in understanding how you get tax-free income and then you get tax deductions for your mortgage and for your interest payments on your mortgage on your taxes. But I am not prepared to debate the merits of the issue, although I am frank to say that it seems that the IRS has a good deal of merit on its side.

Mr. DOLE. I do not quarrel with that. But my view is we cannot resolve every issue on the floor. Rather than have some permanent moratorium, it seems to me the better part of wisdom was to say, "OK, let's defer any implementation of this ruling until January 1, 1986. Let's have some hearings."

I am not certain where the votes would be after we have the hearings. But we do intend to address the issue. I guess you could justify it if you were a minister or in the service because of the low-pay ministers and military personnel receive. I think that is where the Senators are coming from.

Mr. METZENBAUM. The Senator from Ohio is pretty apprehensive because I think the same kind of delay was provided for previously in connection with the generations skipping tax. Now I am aware of the fact that in this bill the generations skipping tax is being provided for through a repeal. So I am just a little bit edgy.

Mr. DOLE. Again, it was by a vote in the committee. I cannot guarantee the Senator from Ohio who may prevail in the committee.

But I am suggesting that I think both the Senator from North Carolina and the Senator from Virginia felt strongly that we ought to decide right now that there should never be any tax involved. My view was we ought to take a look at it and provide a 1-year extension. And that is what we did in the committee insofar as some ministers were concerned. This would be the same on the military.

Mr. METZENBAUM. I thank the Senator.

Mr. DOLE. Is that substantially correct?

Mr. WARNER. Mr. President, that is an accurate representation of the understanding of the Senator from North Carolina and myself.

Mr. DOLE. I have not cleared this with the distinguished Senator from Louisiana. But we did on the ministers. That was committee action. I would suggest maybe the Senators would like to discuss it with the Senator from Louisiana while we are drafting this.

We would be more than pleased to discuss this matter with the distinguished Senator from Louisiana.

Mr. WARNER. Mr. President, in response to the inquiry by the distinguished Senator from Ohio, I would like to trace the history of the taxation of our U.S. military.

Mr. METZENBAUM. Will the Senator from Virginia yield for just 1 minute?

Mr. WARNER. Of course.

Mr. METZENBAUM. I was going to suggest to the Senator from Virginia, let well enough alone. I am calmed down.

Mr. WARNER. I recognize that the distinguished Senator from Ohio is calmed down, but occasionally it is like a volcano, it comes back again at the most unexpected time.

Mr. President, again, the compromise amendment on behalf of Mr. Helms and myself is simply to make it eminently clear to the Internal Revenue Service that the present disposition of the Congress is not to let a Revenue ruling comparable to that of 83-3 be promulgated between now and January 1986 with respect to the military.

We are taking this action because we are privy to the internal working papers of the IRS and correspondence between various Cabinet officers who are likewise concerned.

Going back to the historical origins of taxation of the U.S. military, the Federal income tax advantage accruing to members of the Armed Forces derives from the nontaxable status of subsistence, quarters, and certain housing allowances—basic allowance for subsistence, or BAS, basic allowance for quarters, or BAQ, and variable and station housing allowances, or VHA and SHA, respectively—and Congress determination that those allowances should be treated as part of regular military compensation, along with basic pay. The origin of the tax advantage enjoyed by military personnel can be traced to a 1925 decision of the U.S. Court of Claims—arguably concurred in by Congress ever since—that held that neither the provision of certain items in kind to Armed Forces personnel, nor the payment of an allowance in commutation thereof, was subject to Federal income taxation under the precursor of the present-day Internal Revenue Code. With the subsequent extension of the rationale underlying this decision both to other items provided in kind and to allowances paid in lieu thereof, the tax advantage is appropriately seen as a more or less incidental byproduct of the way Congress has chosen to pay military personnel—namely, the pay plus nontaxable allowances system of military compensation.

So there is a long legislative history regarding the manner in which Congress has devised the military pay system. The action being taken by the Senator from North Carolina, and myself, is to preserve this status quo hopefully in perpetuity. But out of deference to the distinguished managers of the bill, we are willing to accept for the moment the compromise tendered.

Mr. DOLE. I thank the Senator from Virginia.

Mr. MATTINGLY. Mr. President, I support the amendment of the distinguished Senators from Virginia and North Carolina. In my opinion, it is absolutely vital to pass this amendment if we are to prevent what, in essence, would be a paycut for many of our military personnel, including Active, Guard and Reserve personnel.

Currently, the basic allowance for quarters and the so-called variable housing allowance are accorded tax exempt status by the Internal Revenue Service as part of the military compensation formula. Such a tax advantage is an important element in computing the total levels of military pay and benefits. And thus, it is an important recruiting and morale boosting instrument.

Congress has made a specific effort, Mr. President, to increase such allowances at a faster rate than military pay itself. These actions were undertaken with the specific purpose of, among other things, reducing future retirement costs. By placing certain benefits outside the specific pay structure, retirement pay, which is based on service pay, will be reduced.

So I believe it to be unwise, Mr. President, to allow the IRS to thwart the expressed intention of the Congress.

I know that the Warner—Helms amendment would impact groups and individuals other than those in the military. I am pleased that it does and support its application in those areas.

As chairman of the Military construction Appropriation Subcommittee, I am acutely aware of the enormous costs involved in building adequate family housing units for our servicemen and women; $3.1 billion has been rquested this year for the family housing accounts in the Milcon budget—30 percent of the total Milcon request is devoted to family housing.

I urge the adoption of the amendment.

Mr. DOLE. Mr. President, before I suggest the absence of a quorum, Senator Quayle was here earlier and we understand there are a couple of amendments that he has that at least we can take up. Senator Bradley has three amendments. Senator Bradley is here. Is the Senator prepared to proceed with his three amendments?

Mr. BRADLEY. I am prepared to proceed with one amendment.

Mr. DOLE. Does the Senator have two additional amendments?

Mr. BRADLEY. I do have. I would expect at some point to be ready to offer those.

Mr. DOLE. I wonder if we might proceed then. We are trying to work something out to see whether we can take the first one. But is there one we are certain we cannot take that we can bring up?

cleared. We have no objection to the amendment. I think it is a good amendment and am prepared to accept it.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2947) was agreed to.

Mr. DOLE. Mr. President, I understand the Senator from Indiana has another amendment.

The PRESIDING OFFICER. The Chair will advise that the amendment of the Senator from Virginia is still pending as is the amendment of the Senator from Kansas.

Mr. DOLE. Mr. President, if the Senator from Indiana is prepared to proceed, I will ask that we temporarily lay aside those amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, while we are waiting for the next amendment, I would announce that at least the tax portion equivalent of this bill passed the House tonight by a vote of 318 to 97. That bill was debated in the House since about 10 o'clock this morning. It had a majority vote of Republicans and a majority vote of Democrats. That is some indication that we are serious about at least the tax portion of deficit reduction.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. JEPSEN). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Kansas.

Mr. DOLE. Mr. President, the pending amendment is the amendment of the distinguished Senator from North Carolina and the distinguished Senator from Virginia; is that correct?

The PRESIDING OFFICER. That is one of the two pending amendments.

Mr. DOLE. As I understand it, if he would withdraw that amendment, he could send an amendment to the desk. Is that correct?

The PRESIDING OFFICER. It would take unanimous consent to set aside the pending amendment of the Senator from Kansas.

Mr. DOLE. Mr. President, I ask unanimous consent that that be set aside also.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. What I would like to do is withdraw the amendment.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. DOLE. Yes, I yield.

Mr. HELMS. Mr. President, on behalf of the Senator from Virginia, I ask unanimous consent to withdraw the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2945) was withdrawn.

AMENDMENT NO. 2948

Mr. HELMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The bill clerk read as follows:

The Senator from North Carolina (Mr. HELMS), for himself and Mr. WARNER, Mr. MATTINGLY, and Mr. EAST, proposes an amendment numbered 2948.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1137, strike out lines 11 through 23, and insert in lieu thereof the following:

SEC. 976. ALLOCATION OF EXPENSES TO PARSONAGE AND HOUSING ALLOWANCES.

With respect to any mortgage interest or real property tax costs paid or incurred before January 1, 1986, by any minister of the gospel or any member of a uniformed service (within the meaning given to such term by section 101(3) of title 37, United States Code) the application of section 265(1) of the Internal Revenue Code of 1954 to such costs or to a subsistence offering or a quarters as housing allowance shall be determined without regard to Revenue Ruling 83-3 (and without regard to any other regulation, ruling, or decision reaching the same result, or a result similar to, the result set forth in such Revenue Ruling.

Mr. HELMS. Mr. President, I want to make it clear that in addition to Senator WARNER and this Senator from North Carolina, we have cosponsorship of this amendment by the distinguished Senator from Georgia (Mr. MATTINGLY) and the equally able Senator from North Carolina (Mr. EAST).

Mr. DOLE. Mr. President, we have discussed this amendment. I think it is a good resolution of the situation and it has been cleared all the way around. I have agreed to have hearings with the Armed Services Committee not later than October 1 this year. So we accept the amendment.

The PRESIDING OFFICER (Mr. GORTON). The question is on agreeing to the amendment.

The amendment (No. 2948) was agreed to.

Mr. HELMS. I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I ask unanimous consent that we lay aside again the amendment of the Senator from Kansas. I understand the Senator from Alaska (Mr. MURKOWSKI) has an amendment which he will explain.

The PRESIDING OFFICER. Without objection it is so ordered. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I thank the Senator from Kansas.

AMENDMENT NO. 2949

(Purpose: To express the sense of the Senate regarding limitations and termination of qualified veterans' mortgage bonds)

Mr. MURKOWSKI. Mr. President, I send a perfecting amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. MURKOWSKI) for himself and Mr. CRANSTON, Mr. KASTEN, Mr. HATFIELD, Mr. WILSON, and Mr. STEVENS, proposes an amendment numbered 2949.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 906 of the matter proposed to be inserted, between lines 3 and 4, insert the following:

SEC. 781. SENSE OF THE SENATE REGARDING QUALIFIED VETERANS' MORTGAGE BONDS.

It is the sense of the Senate that—

(1) no termination date be imposed on the issuance of qualified veterans' mortgage bonds (within the meaning of section 103A (c)(3) of the Internal Revenue Code of 1954), and

(2) no qualified veterans' mortgage bonds be taken into account in applying section 103A of such Code.

Mr. MURKOWSKI. Mr. President, my amendment is brief and straightforward. The veterans' mortgage bond program is an important program for enabling veterans to obtain housing at reasonable interest rates. It is a program that has worked well in a number of States, and could well be enacted as a program in any State wishing to benefit veterans residing in their State. This is a program that has received broad national support. It has been endorsed by the National Governor's Association, the National Association of Counties, the United States Conference of Mayors, and other national groups.

A veterans' mortgage program was created in my home State in November 1982. Since that time, over 3,500 Alaska veterans have been able to receive housing loans that have allowed their families to buy into a housing market where they may have previously been unable to qualify. The availability of this mortgage loan program for veterans has provided a boost to the housing market, and thus the local economy. These bonding programs have received consistent and overwhelming approval in all States where this issue appears on the ballot. I should note that State-run veterans mortgage programs are not a new phenomena. In fact, the State of California has administered a veterans mortgage program that has helped thousands of veterans for over 61 years.

and for providing me the opportunity to present my views.

Mr. TOWER. Mr. President, I fully concur with the remarks of the Senator from Georgia. I appreciate his clarification of this issue, and I laud his continuing efforts to strengthen the North Atlantic Alliance.

Mr. WARNER. Mr. President, I thank the distinguished Senator from Texas.

It is my understanding that the final matter that we will now cover is an amendment to be offered by the Senator from Virginia relating to the housing allowances for military and the members of the clergy.

AMENDMENT NO. 3333

(Purpose: To clarify congressional intent with respect to the tax treatment of basic allowance for quarters and basic allowance for subsistence, and any rental allowance provided to ministers)

Mr. WARNER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] for himself and Mr. HELMS and Mr. EXON, proposes an amendment numbered 3333.

Mr. WARNER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 84, between lines 14 and 15, insert the following new section:

CLARIFICATION OF TAX TREATMENT OF CERTAIN ALLOWANCES

SEC. 160b. (a) (1) Chapter 7 of title 37, United States Code, is amended by adding at the end thereof the following new section:

"§ 131. Tax treatment of basic allowance for quarters and basic subsistence allowance

"In determining whether any deduction allocable to basic allowance for quarters (including any variable housing allowance, station housing allowance, or similar allowance) or basic subsistence allowance is allowable under the Internal Revenue Code of 1954, such allowance shall not be considered as exempt from income taxes.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"131. Tax treatment of basic allowance for quarters and basic subsistence allowance.".

(b) For the purposes of determining whether any deduction allocable to any rental allowance paid to a minister of the gospel as part of the compensation of such minister is allowable under the Internal Revenue Code of 1954, such allowance shall not be treated as exempt from income taxes.

Mr. WARNER. Mr. President, I ask unanimous consent that the cosponsors of this amendment be Mr. HELMS and Mr. EXON.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I am offering this amendment in order to clarify and make explicit the longstanding intent of Congress regarding the tax treatment of tax-exempt allowances for housing and subsistence which are paid to our service personnel and rental allowances for parsonages which are paid to ministers.

The Treasury Department recently approved and then delayed until January 1985, implementation of a revenue ruling that would require members of the clergy to reduce their deductions for tax-deductible housing expenses to the extent that they are covered by tax-free allowances.

Mr. President, I believe they made an incorrect analysis in that case and now appear to be on the verge of extending it to a group of Americans that are watching the debate on this bill with great interest.

As many of my colleagues fully appreciate, the Internal Revenue Service is currently considering extending that ruling to our military personnel.

Language approved by the Senate for the Budget Deficit Reduction Act, if accepted in conference, would have delayed implementation of any such ruling for both groups until 1986.

Unfortunately, even if the conference committee had accepted the Senate's position, we would still be doing a disservice to millions of our service people and ministers who are waiting resolution of this matter.

The amendment I offer today addresses the plight of these two groups who are so vital to our society.

I fully support maintenance of the status quo for them; not because a benefit is justified—it is—but because it is demonstrably more cost effective for the Government.

In the case of the ministers, their salaries and allowances are paid by the tax-deductible contributions of the members of their respective congregations.

Any loss to the minister due to additional taxes he must pay as a result of Revenue Ruling 83-3 will inevitably be made up by increased contributions from members of the congregation.

Those contributions are, of course, deductible.

Since each increment of increase paid to the minister will be taxable, the before-tax contribution will exceed the total cut that is made up for him.

As a result, the increase in deductible contributions may well exceed the new tax revenue gained from the minister and the Treasury could experience a new loss in revenue.

Mr. President, I raise this issue today, on this bill, because I consider the situation urgent for our uniformed service members due to the frequency with which they move and face rent-or-buy decisions.

For that reason, any delay seriously exacerbates their concerns.

Career-service members must consider tax treatment of their allowances when they are reassigned and forced to make a rent-or-buy decision.

Literally hundreds of these decisions are being made daily.

Without a prompt resolution of this issue, the men and women of our Army, Navy, Marine Corps, Air Force, and Coast Guard must assume the worst.

Secretary Weinberger recently wrote Secretary Regan and pointed out this fact.

He also noted that this particular benefit issue, unlike any other under current consideration, would have immediate impact on take-home pay.

The more than 272,000 current military homeowners would suffer a permanent pay cut of from 4 to 9 percent, depending on many individual factors.

Those faced with a rent-or-buy decision in the future would also face that cut if they buy.

That can only be a powerful disincentive to homeownership for them.

For some current homeowners it could, literally, mean bankruptcy.

Recently, I asked the Department of Defense for their assessment of the impact if such a revenue ruling is implemented for our military personnel.

General Chavarrie's reply indicates a significant, negative impact on morale and retention.

Mr. President, I ask unanimous consent that my question and General Chavarrie's answer be printed in the RECORD at this point.

I also ask unanimous consent that Secretary Weinberger's letter to Secretary Regan be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

IMPACT OF PROPOSED DEDUCTION DISALLOWANCE

QUESTION. Gentlemen, as you know, the Internal Revenue Service and Treasury are studying a proposed Revenue Ruling which would deny otherwise tax deductible housing expenses to the extent they are covered by already tax free allowances such as BAQ. It has been reported that the Secretary of Defense has written the Secretary of the Treasury strongly opposing the proposed ruling. Please provide us with your assessment of both the near and long term impact if such a Revenue Ruling is implemented.

ANSWER. We foresee significant near term and long term impact. Morale, retention, and the budget would all be affected. This action would have a devastating financial impact on the persons directly affected. The significant loss of take-home pay which these personnel would suffer would undoubtedly lower their morale and, for many, could be the deciding factor in choosing not to remain in military service. Further, the effect of this action will extend well beyond those directly affected, ranging from those persons not now homeowners, who will perceive that homeownership has become economically infeasible, to those who will view it as a general assault on military benefits.

We would expect an immediate adverse impact on retention. Though the effect is difficult to quantify, we estimate that the career force could be reduced by up to 9,000 members within five years after the limitation goes into effect, as compared to what the career force would otherwise be. The adverse retention effect of this ruling will be proportionally greater for senior NCOs and petty officers who are eligible for retirement, since they are more likely to own homes and to be in higher tax brackets than other members of the enlisted force and tend to be more responsive to pay changes than for those approaching 20 years of service. To the extent that retention is reduced, it will be necessary to recruit additional entry level personnel to replace the lost careerists. In the environment which we face now of an improving economy and a declining youth population, making our recruiting objectives could prove to be very difficult. The retention effect on our officer community could be even worse than for career enlisted. Since officers are proportionally greater homeowners and would suffer the greatest financial loss under this ruling, we can expect many to leave military service.

We can estimate the financial impact on military homeowners. Approximately 370,000 servicemembers live in homes they own and would be adversely affected by the revenue ruling. The disallowance of deductions for interest and property taxes to the extent of housing allowances would effectively cut their pay by an estimated 4 to 6 percent. Of these, 80 percent are in pay grade 0-3 or lower. For example, a typical homeowner in grade 0-3 in San Antonio, Texas, would have a pay cut of $1,313 per year. An E-7 in Washington, D.C., would lose $1,054. We estimate the total pay loss to be $320 million. The greatest share of this loss is in grades 0-5 ($40M), 0-4 ($46M), 0-3 ($40M), E-7 ($40M), and E 6 ($35M).

Because of equity considerations and the potential impact on retention, these losses in take-home pay may need to be restored. Thus, the potential budget impact results from restoring the pay of affected personnel to the pre-disallowance level. We estimate the cost of restoring the take-home pay of those members affected to be approximately $1.1 billion. Restoring pay would be accomplished by raising housing allowances. The allowances would have to be raised for those who rent as well as the members who purchase their homes. Because it may be unworkable to make a direct reimbursement for the take-home pay loss to those members affected, the most practical and cost-effective solution may be to authorize the deductions explicitly for mortgage interest and property taxes which military homeowners can presently take.

THE SECRETARY OF DEFENSE,
Washington, DC, February 15, 1984.

Hon. DONALD T. REGAN,
Secretary of the Treasury,
Washington, DC.

DEAR DON: Thank you for your letter of January 12, 1984 concerning possible action by the Internal Revenue Service to deny deductions for home mortgage interest and property taxes paid by members of the armed forces who receive tax free housing allowances.

I appreciate your willingness to involve the Administration in what was perceived by some as an issue within the Internal Revenue Service's enforcement authority. I appreciate also your determination to preclude enforcement of any decision adverse to military members that would affect mortgage interest and property taxes paid before January 1, 1986. These actions will meet the immediate concerns of most servicemembers who could have been adversely affected by the Internal Revenue Service position on this matter.

For two reasons, I remain concerned, however, that the Administration must resolve this issue promptly. First, there is my concern for the career servicemembers who must consider this issue when they are forced to make a decision to rent or buy a home upon reassignment. Hundreds of these decisions are being made daily, and a lengthy period of issue resolution may only serve to emphasize the fact that the Government presently does not adequately reimburse military families who move pursuant to Government orders. Second, there is no current military compensation issue that more directly affects the career force. This issue affects today's take-home pay. Thus, the issue has an immediacy that future benefits such as retirement pay will never assume.

So if we could resolve this issue by midsummer this year it would be very helpful—but, of course, better the present situation than the wrong resolution! The Defense staff and I will be pleased to help in any way you think would be useful. We look forward to our discussions with you and your staff.

Sincerely,

CAP.

Mr. WARNER. Mr. President, those of us who have worked with military compensation for many years are well aware of the concept of a total compensation package.

The Armed Services Committee under the leadership of the distinguished Senator from Mississippi, and then under the leadership of the distinguished Senator from Texas, has worked to establish a compensation package for military personnel which equates to what they might expect if they chose a career in the private sector.

That effort is dramatically apparent in the quality of individuals coming into the military today and in the higher retention rates the services presently enjoy.

Revenue rulings dating back at least to 1955 and a 1925 court of claims case uphold the current tax treatment of the allowances in question here.

My amendment does not create any new benefits or add any additional costs to this bill.

It merely serves to make explicit the longstanding intent of Congress for our service people and clergy.

It will also have the added benefit of removing the strain of not knowing the outcome of this attack on their compensation.

The proposed revenue ruling has been hanging over their heads like the "Sword of Damocles," an impending disaster for those individuals and, indirectly, to military readiness.

Mr. President, the Congress has provided tax advantages for military allowances for many, many years as an intended part of the total compensation package for our military personnel.

They provide a very efficient and cost effective means to offset some of the hardships of military service.

A servicemember's entitlements are comprised of pay and allowances.

Pay is defined as "basic pay, special pay, retainer pay, incentive pay, retired pay, and equivalent pay, but does not include allowances."

Military allowances are not considered compensation for services rendered.

Congress closely examines military compensation every year to ensure fairness to our service people and the taxpayers.

The IRS has long respected this practice.

The tax advantages accruing to military allowances may appear to be anomalous ,to some tax accountants, but, in fact, there is a clear history of executive, judicial and legislative approval for them.

Housing allowances, in various forms, have existed for the military since before the Civil War.

These allowances were determined to be nontaxable in 1925.

The IRS adopted the position of the Court of Claims decision and issued Treasury Decision 3724 which announced as policy the nontaxable nature of allowances for quarters.

The current Basic Allowances for Quarters [BAQ] was created as an entitlement by section 302 of the Career Compensation Act of 1949.

Variable Housing Allowance [VHA] was added recently through the efforts of this body to more equitably target regional variations in housing expenses.

The importance of providing housing for the military is seen in the judicial attitude concerning their right to publically provided quarters.

The Supreme Court has said:

> Quarters are expected to be furnished by the Government . . .: When it cannot thus furnish, it allows them to be obtained otherwise and pays a monthly compensation therefor called commutation.

The Court of Claims has gone even further by stating:

> Public quarters . . . (is) are as much a military necessity as the procurement of implements of warfare or the training of troops.

The court added:

> Military quarters . . . are no more than an integral part of the organization itself.
>
> They are . . . the indispensible facilities for keeping the Army intact.

BAQ, by statutory definition, is not considered a part of a servicemember's pay.

BAQ is paid to an eligible member regardless of its resultant or intended use.

Thus it is a statutory entitlement to a fixed sum of money unrelated to any actual expenses incurred for private quarters.

The judicial attitude that an allowance for quarters is for the benefit of the Government and not the individual, explains, in part, the favorable tax treatment of such allowances.

The strongest indication of congressional intent regarding this tax treatment is found in the statutory definition of Regular Military Compensation [RMC]:

> "Regular compensation" or "regular military compensation [RMC]" means the total of . . . basic pay, basic allowance for quarters (including any variable housing allowance or station housing allowance), basic allowance for subsistence; and Federal tax advantages accruing to the aforementioned al-

lowances because they are not subject to Federal income tax.

This definition of RMC makes it clear that Congress intended the allowances to receive favorable tax treatment.

The tax benefits allowed for these allowances are, no doubt, a recognition of the fact that the military housing situation is unique.

The military member must occupy adequate public quarters, when available, or forfeit his allowance.

He can receive BAQ and VHA only when the Government has failed to provide those quarters.

Military personnel are frequently required to move involuntarily, with no compensation for real estate expenses, a benefit commonly available to employees in the private sector in similar circumstances.

They may be required to relocate to high-cost areas, such as the Washington metropolitan area, where they find little or no government housing available for them.

Their moving expenses are generally not fully reimbursed.

They face frequent and prolonged family separations.

Their working conditions are frequently hazardous.

They live each day knowing they may be called on with little notice to combat areas where they will be expected to risk their very lives for us.

Tax advantaged allowances such as the basic allowance for quarters and the variable housing allowance, allow us to address the special housing needs of our military personnel in the most cost-effective manner.

With separate allowances, as opposed to basic pay, the needs and even variations in costs from region to region can be targeted.

Making such allowances tax free reduces the amounts Congress must appropriate to provide fairly for the targeted expenses.

The Department of Defense estimate to restore take-home pay of those affected is $1.1 billion.

This is because any raise to restore their losses would have to be paid across the board to homeowners and renters alike.

Yet the offsetting gain to the Treasury would only be about $300 million.

The proposed revenue ruling would then mean a net loss to the Treasury of $800 million.

The most insidious aspect is already in effect.

Just the threat of this loss of part of their compensation is having an adverse morale impact on our service people.

For the men and women of our uniformed services, this is one more glaring example of erosion of their benefits.

Moreover, they view it as an attack on one of the most fundamental and long-standing aspects of their total compensation package.

The resulting influence on retention, and eventually readiness, is bound to be negative.

What will it cost us to recover from that?

Mr. President, we have historically sought comparability in total compensation for our military personnel.

Revenue ruling 83-3 would destroy that carefully constructed comparability by telling our service people that some of their take-home dollars are not as valuable as a civilian's of comparable pay, if they spend them on a home.

I urge my colleagues to continue making explicitly clear the tradition dating to 1925 that our service people deserve the existing tax treatment as a well earned and appropriate benefit, and as a uniquely cost-effective means for the Government of the United States to discharge part of its obligation to house the uniformed personnel who so steadfastly protect this Nation.

Mr. President, at this time I yield to my distinguished colleague from North Carolina [Mr. HELMS].

Mr. HELMS. Mr. President, I support completely the amendment of my good friend the able Senator from Virginia [Mr. WARNER] and I am honored to join him in sponsoring it.

Mr. President, in early 1983 the Internal Revenue Service issued a ruling preventing ministers from deducting mortgage interest and taxes on their residence to the extent that they receive a traditional, nontaxable parsonage allowance. Later, the IRS indicated that it would apply the same ruling to military personnel with respect to their quarters allowance.

As a consequence of these IRS actions, I introduced a bill, S. 2017, to preserve the status quo for both ministers and military personnel. When the deficit-reduction package came before the Senate in April, Senator WARNER and I jointly sponsored an amendment—which was adopted—to postpone the implementation of the IRS ruling until January 1, 1986. In the meantime, Congress would have time to study the whole matter and to decide if this change in current law is merited. Many, including myself, have questioned whether the IRS should have attempted to make such a substantive change in the law unilaterally anyway.

Mr. President, the Warner-Helms amendment will complement our amendment to the deficit-reduction package. It is a fact that if the IRS ruling is allowed to take full effect, both ministers and military personnel will be given a direct pay cut. Churches would face the prospect of having to raise the pay of their clergy, and Congress would have to do likewise for the military. Moreover, the uncertainty already caused the military in this matter has had an adverse effect on troop morale, according to reports available to my office.

I urge my colleagues to support this amendment.

Mr. President, an enlightening article on the military side of this subject appeared in the fall 1983 edition of the Military Law Review. I ask unanimous consent that this article, written by Maj. Thomas A. Pyrz of the Judge Advocate General's Corps, U.S. Army, and entitled "Deductibility of Mortgage Expenses by the Military Homeowner after Revenue Ruling 83-3," including footnotes be printed in the RECORD at the conclusion of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DEDUCTIBILITY OF MORTGAGE EXPENSES BY THE MILITARY HOMEOWNER AFTER REVENUE RULING 83-3

(By Maj. Thomas A. Pyrz)*

I. INTRODUCTION

Since 1925, the military homeowner has enjoyed the benefits of a nontaxable allowance for quarters.[1] This allowance is generally used to offset, at least in part, the service member's monthly mortgage payment. The portions of the payment which constitute interest[2] and taxes[3] are allowable itemized deducations under current tax laws. This allows a military homeowner to use tax-exempt dollars to generate a second tax benefit in the form of itemized deductions to the extent that these deductions exceed the zero bracket amount. A recent Internal Revenue Service (IRS) Revenue Ruling, 83-3, raises doubt concerning the continued availability of this tax benefit for the military homeowner. This article will analyze Revenue Ruling 83-3 and its potential effect on the military homeowner.

II. THE RULING

Revenue Ruling 83-3 was issued in January of 1983 on the initiative of the IRS rather than at the request of a specific taxpayer. The ruling announces IRS policy that, "veterans and other students may not deduct educational expenses; and ministers may not deduct interest and taxes paid on a personal residence, to the extent the amounts expended are allocable to tax-exempt income."[4]

The ruling states that section 265(1) of the 1954 Internal Revenue Code (IRC) prohibits the deductions in question. Section 265(1) provides that no expense may be deducted for "any amount otherwise allowable as a deduction which is allocable to one or more classes of income . . . wholly exempt from the taxes imposed by this title."[5] This section of the Code is substantially unchanged from its predecessor, section 24(a)(5) of the Revenue Act of 1934.[6]

This ruling expressly overrules Revenue Rulings 62-212[7] and 62-213[8] which had authorized the deductions which 83-3 now denies. Ruling 62-212 dealt with the deductibility of a minister's mortgage expenses paid out of his tax-exempt "rental allowance" governed by section 107, IRC. The section of Revenue Ruling 83-3 dealing with the deductibility of a veteran's reimbursed educational expenses merely adopts the position of the Tax Court of the United States in the case of Manocchio v. Commissioner.[9] Prior to any discussion of the effect of the ruling on the military homeowner we must examine the two prongs of the ruling in greater detail.

III. THE RULING AND THE MINISTERS

Section 107, IRC, provides:

In the case of a minister of the gospel, gross income does not include—

(1) The rental value of a home furnished to him as part of his compensation; or

(2) the rental allowance paid to him as part of his compensation, to the extent used by him to rent or provide a home.[19]

There is no statutory entitlement to a rental allowance for a qualifying member of the clergy. Congress had merely created a specific exclusion from gross income for the rental allowance to the extent it is used to offset actual or reasonable expenses. Section 107, IRC, was drawn from section 22(b)(6) of the 1939 IRC and has remained substantially unchanged since it first appeared in the Revenue Act of 1921.[20] The legislative history of section 107 provides no indication why Congress granted this tax benefit to the clergy.

Whatever its congressional inspiration, the "parsonage exclusion" is much less attractive after Revenue Ruling 83-3. At its broadest, the exclusion is not available to all clergy. * * *.

* * * * *

* * * airline pilot who attended a flight-training course which maintained and improved the skills required in his profession. Pursuant to section 1677 of Title 38, U.S. Code, he received checks from the Veterans Administration (VA) covering 90 percent of his expenses. He endorsed the checks over to the training facility. These reimbursements were not taxable income to him; section 3101(a) of Title 38, U.S. Code provides a blanket exclusion from taxation for all benefit payments received pursuant to any law administered by the VA. Manocchio, properly, did not report the payments as income on his 1977 Federal Income Tax return. He nonetheless deducted the entire flight-training expense as a business expense on this return.[21]

The Tax Court found that the expense was "directly allocable" to tax-exempt income and therefore nondeductible under section 265(1), IRC. Manocchio argued that section 265(1) did not apply to his case because the section was intended to apply only to expenses incurred in producing tax-exempt income. His argument was based on the legislative history of section 24(a)(5) of the Revenue Act of 1934, the predecessor of section 265(1).[22] While the court conceded that the "principal target" of the provision was expenses incurred in an active trade business or investment activity, it was unwilling to read the provision as limiting the scope of section 265(1) to so narrow an area.[23]

The court found that section 265(1) was intended to reach all expenses "allocable to" exempt income. As such, it found the language of section 265(1) broad enough to reach situations such as Manocchio's wherein, but for the expense, there would be no tax-exempt income. The court further found that a one-for-one relationship between the reimbursement and the expenses created a sufficient nexus to consider the expense "direct allocable" to the tax-exempt income.

Manocchio's final argument was based on an equal protection theory. He argued that it was unfair discrimination for the IRS to disallow an expense deduction for recipients of benefits under section 1677 while still permitting expense deductions for recipients of VA benefits under section 1681 of the same Title, education allowance benefits. The court found that, since the section 1681 benefits were paid in the form of a "living stipend" and not paid based upon any actual training cost, the different tax treatment was not unreasonable.[24]

V. THE RULING AND THE MILITARY HOMEOWNER

Having now considered the effect of Revenue Ruling 83-3 on the minister's "rental allowance," and the court's decision in Manocchio, the skeptical military homeowner must wonder whether he or she can still deduct mortgage expenses even though BAQ and VHA are tax-exempt income. The answer lies in a closer analysis of section 265(1), its legislative history, and a study of the congressional and judicial treatment of BAQ and VHA.

At first blush, the similarity between the parsonage allowance and the military allowance for quarters is startling. In reality, the allowances are quite different in form and in their treatment by Congress.

A service member's entitlements are comprised of pay and allowances. Pay is defined as "basic pay, special pay, retainer pay, incentive pay, retired pay, and equivalent pay, but does not include allowances."[25] Military allowances are not considered compensation for services rendered.[26] Housing allowances have existed for the military since before the Civil War.[27] These allowances were determined to be nontaxable by the Court of Claims in 1925.[28] The IRS adopted this decision and issued Treasury Decision 3724 which announced the nontaxable nature of allowances for quarters as IRS policy.[29] The current BAQ was created as an entitlement by section 302 of the Career Compensation Act of 1949.[30] The legislative history of this Act gives no indication as to the intended tax treatment of BAQ.

Congress, however, clearly intended the BAQ and VHA to be treated differently than the ministers' rental allowance. Unlike the specific exclusion from gross income given the ministers' allowance, the BAQ is merely excluded from the definition of gross income in the IRC.[31] While a rental allowance, by statute, must be paid to a minister as a part of regular compensation,[32] BAQ, by statutory definition, is not considered a part of a service members pay. The BAQ is paid to an eligible member regardless of its resultant or intended use. The minister only receives the tax-exempt allowance if an expense is generated. The BAQ is a statutory entitlement to a fixed sum of money unrelated to any actual expenses incurred for private quarters. The rental allowance is not fixed by statute and is limited to a reasonable amount. These differences show that the only real similarity between the two allowances is that they are both generally related to housing. After that, any comparison of the two fails.

The importance of providing public housing to the military has been noted in the judicial attitude concerning the right to public quarters. The Supreme Court has said: "Quarters are expected to be furnished by the government . . .; when it cannot thus furnish, it allows them to be obtained otherwise and pays a monthly compensation therefore called commutation."[33] The Court of Claims has gone further by stating: "Public quarters . . . are as much a military necessity as the procurement of implements of warfare or the training of troops."[34] The court added, "military quarters . . . are no more than an integral part of the organization itself. They are . . . the indispensible facilities for keeping the Army intact. . . ."[35]

This judicial attitude that an allowance for quarters is for the benefit of the government and not the individual explains, in part, the favorable tax treatment of BAQ. The ministers' rental allowance does not enjoy this exhalted position.

It could be argued that Congress has defined away BAQ from any application of section 265(1): this provision of the Code would now allow "an otherwise allowable deduction which is allocable to one or more classes of income . . . wholly exempt from the taxes of this subtitle . . . ."[36] One could argue that, BAQ is not income, section 265(1) does not apply and the deduction for interest, and taxes allocable to BAQ are therefore allowable under sections 163 and 164.

This technical analysis of section 265(1) stretches a point and may leave the military homeowner uncomfortable. The definition of income is the subject of much disagreement among tax scholars;[37] the homeowner need not rely solely on defining the problem away.

To understand the critical difference between the ministers' rental allowance and BAQ, the Tax Court's decision in Manocchio must be recalled. That court's holding merely extended the prohibition of section 265(1) to cover the situation where tax exempt dollars were "generated" by incurring an expense. Receipt of the specific exclusion under section 107 is conditioned upon the actual expenditure of the allowance for rental or mortgage expenses. Even then, the exclusion is limited to a reasonable living expense and can never exceed the amount actually expended by the minister. It is the expense that generates the tax-exempt dollars. The exclusion is tied dollar-for-dollar to the expense and is "directly allocable to the expense."

Receipt of BAQ has no such precondition. The entitlement does not depend on whether the military recipient generates an expense. It is fixed by statute and payable whenever suitable quarters are not provided to eligible service members. A service member may live in a parent's home, pay nothing, and still receive BAQ. As such, section 265(1) does not apply because any deductible expense is not "directly allocable" to the tax-exempt income; the expense does not generate the tax-exempt dollars.

The final obstacle to the continuing deduction is found in the IRS position that the IRC shall not be read to allow a "double deduction" absent a "clear declaration" of congressional intent.[38] Congress has shown this intent, however, with respect to the BAQ.

The strongest indication of congressional favoritism for the BAQ is found in the statutory definition of Regular Military compensation (RMC): "regular compensation" or regular military compensation (RMC) means the total of . . . : basic pay, basic allowance for quarters (including any variable housing allowance or station housing allowance), basic allowance for subsistence; and Federal tax advantages occurring to the aforementioned allowances because they are not subject to Federal income tax.[39]

This definition of RMC makes it clear that Congress intended the allowance to receive favorable tax treatment. The tax benefits allowed for BAQ are, no doubt, a recognition that the military housing situation is unique. The military member must occupy adequate public quarters, when available, or forfeit the allowance.[40] The service member can receive BAQ only when the government has failed to provide those quarters. Because of this unique situation, the military receives a tax advantage that is not available to Department of the Army contract surgeons[41] or to former members of the military.[42]

VI. CONCLUSION

When the technical legal arguments have all been made, the ultimate decision as to the deductibility of the military homeowners' mortgage expenses will be decided by reference to section 265(1), IRC. If the reach of that section is broad enough to prohibit deductions for otherwise deductible expenses simply because they are paid out of tax exempt dollars, the military homeowner may become extinct. The tax benefit received because of the deductibility of these mortgage expenses would be reduced by 60 to 100 percent, depending upon mortgage terms and BAQ and VHA rates.

In the final analysis, it seems unlikely that the IRS will attempt to question the deductibility of these mortgage expenses payable from BAQ. The congressional intent to provide favorable tax treatment to military BAQ is unquestionable. The recent extension of section 265(1) to prohibit the previously allowed deductions concerned in Revenue Ruling 83-3 is not inconsistent with continued favorable treatment for the BAQ. In both the VA and rental allowance cases, the extension merely applies to the denial of expense deductions which generate tax-exempt dollars. But for the expenses, there would be no tax-exempt income in either case.

Judge Fay's concurring opinion in Manocchio states: "I agree petitioner's claimed deduction is disallowed by section 265(1). However, I disagree with any implication that we are deciding section 265(1) applies to expenses paid out of exempt income. . . . Given the legislative history's indication that the principle target of section 265(1) is expenses incurred in the production of exempt income, I find no reason to consider any possible reach of section 265(1) beyond that clear target."

Judge Fay's opinion was joined by two other members of the five judge panel. While the opinion does not decide the issue expressly, it seems that the Tax Court will not extend the reach of section 265(1) to deny a deduction merely because the expense is paid out of tax-exempt dollars. Given the present feeling on the court and the tremendous ramifications which an adverse decision would have on the armed services, it seems that Revenue Ruling 83-3 is no more than an initial scare for the military homeowner.

The issue discussed in this article has not yet been presented to or by the IRS. Until such time as it is raised, the military homeowner should continue to deduct the expenses on the theory that section 265(1) does not apply to expenses simply because they are paid out of tax-exempt funds.

FOOTNOTES

* Judge Advocate General's Corps, United States Army. Currently assigned to the Litigation Division, Office of The Judge Advocate General, U.S. Army, 1983 to present. Formerly assigned to Office of the Staff Judge Advocate, III Corps, Fort Hood Texas, 1980-82; Battery Commander, Headquarters and Headquarters Battery, III Corps Artillery, Fort Sill, Oklahoma, 1976-77. J.D., Indiana University, 1980; B.S. United States Military Academy, 1971. Completed 31st Judge Advocate Officer Graduate Course, 1982-83; Distinguished Graduate, 94th Judge Advocate Officer Basic Course, 1980. Completed Field Artillery Officer Advanced Course, 1976. Member of the bar of the state of Indiana.

[1] *Jones v. United States*, 60 Ct. Cl. 552 (1925).

[2] I.R.C. § 163 (1976).

[3] *Id.* at § 164.

[4] Rev. Rul. 83-3, 1983-1 I.R.B. 10.

[5] I.R.C. § 265 (1976).

[6] Revenue Act of 1934, Pub. L. No. 216, § 24, 48 Stat. 691 (1934).

[7] Rev. Rul. 62-212, 1962-2 C.B. 41.

[8] Rev. Rul. 662-613, 1962-2 C.B. 59.

[9] *Manocchio v. Commissioner*, 78 T.C. 989 (1982).

[10] I.R.C. § 107 (1976).

[11] W. Pedrick & V. Kirby, The State of Tax Law—Income Tax Volume 81 (1979).

* * * * *

[15] *Manocchio v. Commissioner*, 78 T.C. 989 (1982).

[16] *Id.*

[17] *Id.*

[18] *Id.*

[19] U.S.C. § 101(21) (Supp. V. 1981).

[20] Weiss, "Tax Problems of the Serviceman," 34 Taxes 277 (1956).

[21] Ct. Cl. at 566.

[22] *Id.*

[23] Treas. Dec. 3734, IV-2, C.B. 136 (1925).

[24] Career Compensation Act of 1949, Pub. L. No. 351, 302, 63 Stat. 815 (1949).

[25] Treas. Reg. 1.61-2(b), T.D. 6416, 6696 (1963).

[26] I.R.C. § 107 (1976).

[27] *United States v. Phisterer*, 94 U.S. 224 (1877).

[28] *See Jones*, 60 Ct. Cl. at 569.

[29] *Id.*

[30] See I.R.C. § 265 (1976) (emphasis added).

[31] See Pedrick & Kirby, *supra* note 11, at 41.

[32] Rev. Rul. 83-3, 1983-1 I.R.B. 10.

[33] 37 U.S.C.A. § 101(a) (Supp. 1982).

[34] U.S. Dep't of Army, Reg. No. 210-50, Installations—Family Housing Management, Para. 3-3 (1 Feb. 1982).

[35] Rev. Rul. 60-66, 1961-1 C.B. 31.

[36] *Van Rosen v. Commissioner*, 17 T.C. 834 (1951).

The PRESIDING OFFICER. Is there further debate?

Mr. NUNN. Mr. President, we have looked at the amendment of the Senator from Virginia. I have some reservations about putting that amendment on this bill. I am for the substance of the amendment. This matter has been checked with the chairman of the Finance Committee and the ranking minority member of the Finance Committee. I think the chairman of the Finance Committee gave his assent and I would say the ranking minority member did not interpose an objection. Therefore, I will not object to the amendment.

Mr. WARNER. Mr. President, at this time I wish to state that the observations by the distinguished Senator from Georgia are correct. This matter has been reviewed by both the chairman and the ranking minority member of the Finance Committee.

I was informed that, regrettably, at the conference yesterday the basic substance of this amendment, which I put forth as an amendment to the Deficit Reduction Act, was rejected by the conference. In the words of the Senator from Kansas [Mr. DOLE], he thought it was wise that I proceed today very promptly to try and recover the lost ground of yesterday, because the purport of this legislation is to help two very, very needed professions. It is, therefore, my desire to see that this be done as promptly as we can.

Mr. President, seeing no Senators desiring to speak upon this measure pending before the Senate, I ask that the amendment be adopted.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Virginia [Mr. WARNER].

The amendment (No. 3223) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, we are waiting for the distinguished Senator from Utah. It is my understanding that this will be the last item with respect to this bill today and that we can anticipate the leadership on this side will soon join the distinguished Senator from West Virginia on the floor which will conclude today's activities.

Mr. NUNN. That is my understanding, also. I would say to my friend from Virginia. I do have a NATO amendment that I could bring up, if the Senator would like to discuss it and vote on it this afternoon by voice vote.

AMENDMENT NO. 3224

(Purpose: To establish a Secretary of Defense Joint Service Study Group to study and recommend possible changes in Military Dress and Appearance Regulations to accommodate Religious Requirements of Members of the Armed Services)

Mr. HATCH. Mr. President, I send my amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Utah [Mr. HATCH] proposes an amendment numbered 3224.

Mr. HATCH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of page 239 add the following new section:

STUDY OF MILITARY DRESS AND APPEARANCE REGULATIONS AND RELIGIOUS REQUIREMENTS OF MEMBERS OF THE ARMED SERVICES.

SEC. . (a) In an effort to augment religious freedom in the Armed Services, to the greatest extent consistent with requirements for discipline and uniformity, the Secretary of Defense shall form a Joint Service Study Group, to consist of two representatives from each Service appointed by the Chief of each Service, and four non-military citizens, one to be selected by the Chief of Chaplains of each of the four services, to conduct a study concerning the dress and appearance standards for members of the Armed Services.

(b) Such study shall focus on the interests of members of the Armed Services in abiding by their religious tenets and the interests of the military services in maintaining discipline and uniformity of appearance. The views of non-military representatives of various major religious organizations concerning religious dress and appearance requirements will be presented to the Study Group in written or oral testimony and shall be included in the study.

(c) Upon completion of the Study Group shall recommend to the Secretary of Defense any changes in military regulations which may be necessary and appropriate to reasonably accommodate the interests of members of the Armed Service in abiding by their religious tenets and the interests of the military services in maintaining discipline and uniformity of appearance. The Service Secretaries shall issue changes, as appropriate, in military regulations pursuant to these recommendations to become effective no later than January 1, 1986.

(d) A report of the findings and recommendations of the study group, together with any changes made in military regulations, shall be submitted to the Committees on Armed Services of the Senate and House of Representatives by January 1, 1986.

Mr. HATCH. Mr. President, my proposed amendment and a similar Solarz

TESTIMONY OF SENATOR JESSE HELMS BEFORE THE SENATE FINANCE SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT, September 26, 1984

Mr. Chairman, I am grateful to you and the distinguished Finance Committee Chairman (Mr. Dole) for holding this hearing on my bill, S. 2017, along with the other legislation before the Subcommittee today. This is an important matter, and I commend the Subcommittee for considering it now, despite the rush to adjourn sine die on October 4. I hope this Subcommittee action will lead to prompt reporting of the bill by the full Committee so that the bill can be passed by Congress within the next several days.

Mr. Chairman, in early 1983 the Internal Revenue Service issued a ruling that prevents ministers from deducting mortgage interest and taxes paid on their residence, to the extent that they receive a traditional, non-taxable parsonage allowance. Later, the IRS indicated that it would apply the same ruling to military personnel with respect to their quarters allowance.

Because of these IRS actions, I introduced S. 2017 on October 27, 1983, to maintain the status quo for both ministers and military personnel. When the deficit-reduction package came before the Senate in April of this year, Senator Warner and I sponsored an amendment -- which was adopted -- to postpone the taking effect of the IRS ruling until January 1, 1986. Senator Warner and I believed that the interim provided by our amendment would allow Congress to study the matter carefully, as we are doing today, and then work its will before January 1, 1986. Many, including myself, have questioned whether the IRS should have attempted to make this substantive change in the law on its own anyway.

Mr. Chairman, in addition to the Warner-Helms amendment postponing the full taking effect of the revenue ruling, we also offered an amendment to the Department of Defense authorization bill which, in a different way than S. 2017, would have maintained the status quo ante. This amendment was adopted in the Senate without opposition in June of this year, but it was deleted by the Conference Committee in an effort to maintain the customary prerogatives of the House on the initiation of revenue measures.

I believe these two separate Senate floor victories, which Senator Warner and I have had in connection with this issue, demonstrate that there is strong support for the objectives we seek. Because of this strong support, I would urge prompt committee action.

Mr. Chairman, let me now explain in more detail the background of this issue and the reasons for enacting this legislation.

In early January of 1983, the Internal Revenue Service published Revenue Ruling 83-3. In part, this ruling provides that ministers may no longer deduct interest and taxes paid on a personal residence to the extent the amounts expended are allocable to tax-exempt income. In addition, there have been indications that Revenue Ruling 83-3 will be applied to military personnel who likewise receive housing allowances.

Mr. Chairman, it is common practice in the United States for a minister to be given a housing allowance by his church. Under section 107 of the Internal Revenue Code this allowance is excludable from the minister's gross income. Up to now ministers have, fully within the letter of the law, deducted interest and taxes from their income just like other taxpayers. In their case, however, this deduction has an additional benefit because some of their compensation, in the form of a housing allowance, is exempted from gross income by section 107. With Revenue Ruling 83-3 and its new application of section 265, the IRS is attempting to diminish the benefit of section 107 to the clergy.

Traditionally, Congress has tried to promote religion by refraining from taxing religious activities and by providing certain tax benefits for those involved in religious activities. We provide these tax benefits because of the longstanding recognition by the American people that Government exists to serve the common good of society. Government is the servant, not the master, of the people. Therefore, it is perfectly proper for the Government to give preferred status to certain institutions in society for the public good. Religion certainly occupies such a place in American society.

Also, Mr. Chairman, ever since the formation of the various branches of of our armed services, it has been the practice to provide members of the uniformed services with appropriate housing or with a housing allowance when appropriate housing has been unavailable. The granting of subsistence and housing allowances, separate and apart from actual pay, has been the traditional method for compensating members of the armed services and has been provided for either by regulation or by statute. It is codified today in title 37 of the United States Code.

Allowances paid to our military personnel have in the past been recognized as being exempt from taxation. Both the courts and the Internal Revenue Service have held that subsistence and housing allowances are not items of income. For many years IRS regulations specifically have provided that subsistence and housing allowances need not be included in the income tax returns of members of the uniform services. Up to now, members of the Armed Forces have, fully within the letter of the law, deducted interest and taxes on their personal residences just like other taxpayers.

As with ministers, prior to Revenue Ruling 83-3, members of the uniformed service have received an additional benefit when taking such deductions because some of their compensation, in the form of housing and subsistence allowances, is exempted from gross income. In Revenue Ruling 83-3, the IRS has attempted to diminish the benefits available to the clergy. Now, it would appear, the IRS will also apply 83-3 to the military.

Mr. Chairman, it is my strong conviction, shared by Senator Warner and others, that Revenue Ruling 83-3 should not be permitted by Congress to take effect in this way. In order to achieve the objectives of maintaining the status quo, I urge enactment of my legislation.

Thank you again for your courtesy in allowing me to offer these comments.

Senator PACKWOOD. Next, we will take a panel of LaDonna Harris, representing the Americans for Indian Opportunity; Paul Bramell, the treasurer of the Epilepsy Foundation; and Dee Bott, the exective director of the United Way of Albany County in Laramie, WY.

LaDonna, it's good to have you before us again. It has been a while.

Ms. HARRIS. Thank you, Senator.

Senator PACKWOOD. Why don't you go right ahead.

STATEMENT OF LaDONNA HARRIS, PRESIDENT, AMERICANS FOR INDIAN OPPORTUNITY, INC., WASHINGTON, DC

Ms. HARRIS. Well, I would like to submit my statement, and follow up with what Senator Moynihan said.

And to take the social aspect of it. One of the reasons that I wanted to be on this panel was to be more or less representative of my constituency group, the American Indian, but all people of color and particularly women and children.

I serve in many voluntary capacities other than my work in the Native American community, with women and children. Like the Children's Foundation, I'm president of the board of directors of that, and I can go on and on with the list. In fact, some people call me a nonprofit conglomerate. So I'm pretty much involved in every aspect of this discussion.

I would like to say, again, as a Comanche Indian and—one of the strongest values of the Indian community is to give. One of the qualities that you recognize in our society is the quality and the capability of giving and receiving. It is the highest quality a person can have and one you would recognize so it's a very comfortable thing for me to talk on the social aspects of giving and sharing.

And it brings to mind my experience in the 1960's working with the OEO Program across the country. And my involvement in that capacity is that people helping to solve their own problems, people of color, women, children—working on issues that involve their lives directly. The chance to give is a very important part of socializing people and resolving their own problems. And I think that democratizing charitable giving is a very important factor in our social lives. And coming from the Indian community where I recognize that as a substantial part of our culture. I would like to have everyone in the United States have that same value.

And so I would like to submit this testimony.

Senator PACKWOOD. It will be in the record, LaDonna.

[The prepared written statement of Ms. Harris follows:]

Testimony

Presented to

The Senate Sub-Committee

On

Taxation and Debt Management

Submitted by

LaDonna Harris
President
Americans for Indian Opportunity, Inc.

September 26, 1984

Mr. Chairman, distinguished members of the Committee, my name is LaDonna Harris. It is a pleasure to appear before you today to voice my support for passage of the Permanent Charities Contribution Legislation. I am President and Executive Director of Americans for Indian Opportunity, a national advocacy organization serving the American Indian community. In addition to my work in the field of Indian affairs, I have been deeply involved with many non-profit organizations devoted to improving the lives of children, women, and all peoples of color. Because of this experience I am well aware of the significance of this legislation, and I strongly urge you to take steps to ensure its passage.

I am convinced that the Permanent Charities Contribution Legislation will serve to stimulate charitable contributions to an unprecedented level. And, in light of the state of the economy and the necessity of fiscal restraint on the part of our Federal government, all of us can understand the importance of broadening the base of private charitable support. I believe that the estimated increase in charitable contributions of some $5.7 billion dollars is a powerfully persuasive reason for the passage of this bill.

Too, I think there is also a less obvious, but equally compelling issue involved in this matter, and that is the issue of citizen participation in solving problems of common concern.

The Charitable Contributions Legislation works precisely toward that end by encouraging the taxpayer to better underwrite the programs of private non-profits that deal with major social problems.

I believe that a good share of America's public, especially those in the middle and lower income brackets, have been deprived of incentives to participate in the programs of the non-profit sector. As you know these programs are the very ones that which often address some of the most vital issues affecting individuals in these income levels. Matters such as health, quality of education, legal representation and advocacy, and economic development are increasingly being addressed in a substantial way by non-profit organizations. It is essential that we begin to institutionalize the participation of individuals of all financial means in the activities of these vital organizations.

Philanthropy in the United States, as you are undoubtedly aware, has reached levels unprecedented anywhere else in the world. The United States is blessed with a citizenry whose attitude by and large is to help others in times of need. Recent statistics indicate that individuals in the middle and lower income levels, like those in the upper ones, are actively involved in supporting charitable institutions. Yet by denying the charitable deductions to lower income level non-itemizers, we encourage the idea that philanthropy is limited to this country's wealthy. We must *change that message. The decision before us is one of equity. All of us, regardless of economic status, must have the opportunity through this type of incentive to be involved in resolving our nation's problems, and in building institutions capable of making our nation an even greater place to live.*

The organizations with which I have been so deeply involved including the Urban Coalition, mental health associations, the Children's Foundation and NOW, to name but a few, are involved in critically important activities. These organizations depend to a large extent on private sector support in order to carry out their work. The support of private individuals constitutes a primary source of income for these organizations and thousands of others. At Americans for Indian Opportunity we work diligently to increase individual support to our organization because the increased competition for corporation and foundation support makes it vital to the life of our organization to expand our support base into that sector. According to the preliminary results about the success of the PCCL, groups like ours can anticipate increased donations from non-itemizers.

Our Country must recognize the importance of philanthropic support on the part of individuals of lesser means for the kinds of activities undertaken by our nations non-profit public institutions. Importantly, we will be encouraging those closest to the very problems that we are trying to resolve to participate in finding the solutions. It is my experience that people will gladly give if they can see that it is truly in their best *interest. Incentive such as that provided in the PCCL allow people of all income brackets the opportunity to experience the intrinsic rewards of giving, sharing and participating. I can think of no approach that might better guarantee positive results in tackling our nations ills than measures like the Permanent Charities Contributions Legislation which seeks to broaden the base of constituency support. I respectfully encourage you to enact this important legislation.*

STATEMENT OF PAUL BRAMELL, TREASURER, EPILEPSY FOUNDATION OF AMERICA, LANDOVER, MD

Senator PACKWOOD. Mr. Bramell.

Mr. BRAMELL. Senator, thank you. I also have testimony for the record, if you will, Mr. Chairman.

I'm treasurer of the Epilepsy Foundation of America, which is the sole national organization that attempts to help the 2 million-plus people with epilepsy and their families.

We have a great deal of difficulty in raising money because of the stigma of epilepsy. And the White House Conference in 1977 dealing with the handicapped identified epilepsy as being a hidden disorder. It does not disfigure. It does not have the often outward manifestations of other disorders. And as a result, raising money is very, very difficult.

We feel that unless the sunset provision of this charitable contribution law is eliminated it will adversely impact on our ability to raise funds.

We did some tests recently to test how it's affecting us now. And with 5,000 mailings out of our normal pattern, we inserted a piece of literature that described in the very briefest form the ability of one who did not itemize to take a charitable deduction. That mailing, when balanced against the other mailings that did not have that enclosure, produced an increase of 7.1 percent. This was in November of last year.

Senator PACKWOOD. Say that again.

Mr. BRAMELL. It produced an increase in per dollar gift of 7.1 percent higher than those that did not receive the information brochure.

Senator MOYNIHAN. And in the world of mailing, that 7 percent change is a very real change; is it not?

Mr. BRAMELL. Yes, sir, it is. Quite a significant one. In March, we repeated the experiment with the same number of mailings and received an increase of approximately 2.2 percent. I'm not sure why the difference except perhaps the first mailing being in November was nearing the end of the tax year, and people had that type of thing on their mind. It's also, obviously, the giving season.

When Congress weighs the value or whether they want to continue the charitable contributions law beyond 1986, we would like for them to weigh the value of the services that nonprofit organizations such as the Epilepsy Foundation provide that we don't believe can otherwise be effectively delivered.

These include the public education aspect, the employment, the support for medical research, and the public advocacy and that type of thing.

The Epilepsy Foundation encourages and supports fully the elimination of the sunset provision.

Thank you.

Senator PACKWOOD. Thank you.

[The prepared written statement of Mr. Bramell follows:]

STATEMENT OF PAUL BRAMELL ON BEHALF OF THE EPILEPSY FOUNDATION OF AMERICA

My name is Paul Bramell, and I am the Treasurer of the Epilepsy Foundation of America. EFA is the sole national organization addressing the needs of persons with epilepsy and their families.

On behalf of the Epilepsy Foundation of America, I would like to thank you, Mr. Chairman, for your leadership in introducing S. 337. We appreciate this opportunity to testify in support of making the Charitable Contributions Law a permanent provision of our tax code since our Foundation and the services we provide receives substantial support from individual contributions. This law, enacted in 1981, has extended the federal incentive to contribute financial support to nonprofit organizations to all taxpayers regardless of what their filing status might be.

The Foundation would also like to share with the Subcommittee the results of a test we conducted to determine what affect the Charitable Contributions Law might have upon our donors.

But first, allow me to take a few minutes to describe how EFA uses the contributions it receives to help individuals with epilepsy, their families, medical and other professionals and the general public.

Epilepsy is the second most prevalent neurological disorder affecting over two million Americans. The Foundation's mission is to prevent epilepsy and its consequences, and to help persons with epilepsy, their families and other concerned individuals overcome the problems associated with the disorder. EFA provides technical support and materials for its 88 state and local affiliates around the country that provide a broad range of services for people with epilepsy and their families including information and referral, counseling, employment and training programs and independent living opportunities. Our affiliates also provide public education about epilepsy.

Public education is among the primary activities of the Foundation at the national level as well because public misconceptions about epilepsy and people with epilepsy can be as severe a disability as the condition itself. Since its founding, the Epilepsy Foundation of America has stood against the stigma and estrangement associated with epilepsy. The Foundation has encouraged society to view the person with epilepsy in a realistic fashion - as an individual with many capabilities whose dysfunction is often quite limited in scope and in time.

EFA works to inform the public that epilepsy can develop at any time of life and may be caused by a wide variety of factors ranging from the lack of oxygen at birth to head injuries suffered during automobile accidents.

In addition to public education, EFA promotes and supports research into the causes and treatment of epilepsy. Epilepsy affects approximately one in every one hundred people. Many are able to lead virtually normal, productive lives because of effective diagnosis and treatment methods. The Foundation annually awards research grants and post-doctoral fellowships as part of our program to attract outstanding young professionals into the field of epilepsy research and treatment.

The Foundation's National Epilepsy Library and Resource Center serves the medical community, our affiliates and the general public by identifying, collecting and disseminating the latest information and research on epilepsy. Our data base has over 2100 bibliographic citations and our referral file has over 2400 resource listings.

It should be pointed out that the National Epilepsy Library and Resource Center was established 3 years ago through contributions which were specifically earmarked for this purpose.

The Information and Referral staff of the Foundation answered close to 13,000 requests for information about epilepsy from the public in 1983.

Unemployment and underemployment continue as major problems for people with epilepsy. Efforts to find and retain a job are hampered not only by the medical condition itself, but also by the stigma attached to it. Through funding provided by the Department of Labor, EFA has operated a national Training and Placement Service known as TAPS. Since 1976, TAPS has placed 6,600 individuals in long-term, unsubsidized employment. There are currently 13 TAPS programs operating throughout the country including offices in Portland, Oregon; Kansas City, Missouri; and San Antonio, Texas.

In addition, there are 14 other employment services operated by our affiliates which are modeled upon the TAPS program.

People with epilepsy face discrimination in many other important aspects of their lives such as access to education, adoption, child custody, driver's licensing and insurance. Through its legal advocacy staff, EFA responded to 690 requests for information from the public and attorneys during 1983. The Foundation will be publishing a state-by-state handbook on the legal rights of people with epilepsy later this year.

I have taken the time to present the Subcommittee with an overview of EFA's services since their value to society is one way to measure whether the Charitable Contributions Law should become a permanent provision of the tax code. Few would dispute that the total value of the services provided by the hundreds of thousands of nonprofit organizations throughout the nation far exceeds the revenue lost by the Treasury due to the charitable tax deduction.

While we are very proud of the programs provided by EFA and our affiliates, we are very aware that there is much more that needs to be achieved. Like so many other service providers - both private and public - we are restrained by limitations on our resources.

Let me note that epilepsy is not an easy cause for fundraising. The 1977 White House Conference on Handicapped Individuals identified epilepsy as a "hidden handicap." It is not a "killer disease" nor is it disfiguring. It does not tug at the heart strings like so many other health disorders. On the contrary, many people are put off by the thought of epilepsy. They do not want to be associated with it publicly. As a result, we have found that direct mail is the most effective means of raising funds.

In 1983, EFA raised $7.3 million to finance our programs. Direct government support of our activities amounted to less than 10 percent of our total budget. In contrast, contributions received directly from the public supported 71 percent of our services last year.

While EFA receives only limited direct government support, we do receive substantial indirect support through the incentives provided in the tax code which encourage charitable contributions.

It has been demonstrated that the deduction provided taxpayers for their charitable gifts encourages a higher level of giving than might otherwise occur. A 1982 Gallup Poll, for instance, found that the average total donation by taxpayers who itemize is nearly twice the average total donation by nonitemizing taxpayers at the same levels of income.

Through the charitable tax deduction, the federal government has encouraged individual taxpayers to support the nation's voluntary sector since 1917. In effect, the federal government has underwritten a portion of each individual's charitable contributions. The result today is the diverse network of private nonprofit organizations which contribute so much to our way of life.

It was not, however, until passage of the Charitable Contributions Law in 1981, that this incentive to contribute was extended to all taxpayers.

While the Charitable Contributions Law is now in its third year, an accurate assessment of its impact on charitable giving will not be possible until we can analyze what happens in 1985 when taxpayers may deduct half of their total contributions.

We do know, however, that 91 percent of the returns filed in 1982 which claimed a charitable deduction under the provisions of the Charitable Contributions Law were submitted by households with an adjusted annual income of less than $30,000. Given this trend, EFA anticipates that the extension of the charitable tax deduction to lower and moderate income families will provide increased support for our Foundation since a recent analysis of our contributors found that 64 percent have a total household income of less than $30,000 a year.

In an attempt to quantify the likely affect of the Charitable Contributions Law on the level of support provided EFA by our current donors, we conducted two tests as part of our regular fundraising program. We used the following methodology.

First, all donors who had contributed to the Foundation during the preceding twelve months were grouped by their level of support. An enclosure describing the provisions of the Charitable Contributions Law was then inserted in the mailing sent to 5,000 randomly selected donors within one of the contribution groups. The other donors within the test group did not receive the enclosure.

The first mailing was conducted last November. The average donation given the Foundation by those receiving the enclosure was 7.1 percent higher than the amount received from those not receiving the insert. In the second test which was mailed in March, the average gift was 2.2 percent higher.

While our tests were limited, our experience leads us to believe that the Charitable Contributions Law will prove to be effective in generating increased levels of support as contributors become more familiar with the provision and as the limits on the amount they may deduct are removed.

The Epilepsy Foundation of America recognizes that the ongoing deficit crisis will continue to influence the decisions of the next Congress. Additional restraints on domestic spending and program services are likely to be imposed in an attempt to limit the growth of the federal budget. The nonprofit sector which is already struggling to meet existing demands will undoubtedly be forced to respond by stretching our resources even thinner in order to provide services to those in need.

The additional income generated by the Charitable Contributions Law will be needed to offset these expanded burdens. Therefore, we urge this Subcommittee to act as soon as posible to ensure that the provisions of the Charitable Contributions Law will remain in effect beyond 1986.

Again, I would like to thank you, Mr. Chairman, for your continued leadership not only on this issue but for all your efforts to strengthen the voluntary sector of our nation. I will be happy to respond to your questions.

STATEMENT OF DEE BOTT, EXECUTIVE DIRECTOR, UNITED WAY OF ALBANY COUNTY, LARAMIE, WY

Senator PACKWOOD. Ms. Bott.

Ms. BOTT. I've been executive director of Albany County in Wyoming since 1981, the year the charitable contributions law was enacted.

I'd like to tell you about our county, about Laramie, where United Way has its office; about the people we look to for support. We are located in the southeast part of the State, and it takes an hour or more travel in any direction to reach another major town. So in a sense you could say we are a self-contained area and look primarily within our own boundaries to meet the needs of our people.

Laramie's economic mainstay is the University of Wyoming. In economic terms, you could describe the county's population as primarily middle income.

I would say that by and large our population's makeup is one targeted by the designers of the charitable contributions law.

The United Way raises funds for 16-member agencies in Albany County. None of these are information referral. They all provide direct human services. The scope of their services touches the lives of every age group. Last year alone, we touched over 25,000 people in our county.

When you consider the fact that our total population is 30,000, and 12,000 of those are university students, I think you can begin to see what United Way agencies mean to our people.

In the 4 years that I've been director, I've seen those agencies struggle with problems generated by the reduction in Federal support. The 4-percent reduction in funds for agencies has, because of inflation, handicapped them in their efforts to meet human need, and they've looked increasingly to our United Way and local support to continue to furnish their services.

We believe in local support, and are proud of the manner in which our United Way has responded to increasing demands. But I am concerned as to how Albany County will continue to meet that increasing demand. Our population is a stable one, so we cannot count on large influxes of new people as potential donors. We do not have large industries guaranteeing fair-share contributions from hundreds of employees. We have many people very generous within their means, but we have no large supply of wealthy people ready to produce checks for thousands of dollars. Indeed, our records show that generally less than one-fourth of the money given in Albany County comes from large business or individual gifts.

Seventy-five percent of the money we raise, therefore, comes from smaller gifts from individuals in the middle-income group which characterizes the bulk of our population.

This group is truly the base of our support, and in our efforts to meet increasing agency needs we are striving to broaden that base. We cannot do this by expecting the same number of donors to give more money, but by encouraging a greater number of people to become donors. The tax benefit of the charitable contributions law is an important tool in accomplishing this. We rely heavily on the appeal of tax deductibility. Our pledge cards advertise that benefit. Participation in our special fundraising events is enhanced by that benefit. Our volunteers are trained to emphasize that benefit in their solicitations.

To lose this vital incentive just as it is enabling us to encouarge more participation would, I believe, hurt our efforts substantially. I'm not saying that failure to enact the permanent charitable contributions law will result in failures of United Ways like ours across the country. But if this committee believes in encouraging a renewed commitment from the private sector to support human services at the local level, and to do so successfully, it will not deprive lower and middle income contributors of a valuable incentive.

I do not believe it coincidental the year the charitable contributions benefit was announced, Albany County United Way, for the first time in a dozen or more years, reached 100 percent of its drive goal, and that that record was repeated in successive campaigns.

I appreciate the opportunity to appear in testimony for Senate bill 337.

Thank you.

Senator MOYNIHAN. We thank you, Ms. Bott.

[The prepared written statement of Ms. Bott follows:]

STATEMENT OF
DEE BOTT
EXECUTIVE DIRECTOR, UNITED WAY OF ALBANY COUNTY
LARAMIE, WYOMING
BEFORE THE
SUBCOMMITTEE ON TAXATION & DEBT MANAGEMENT GENERALLY
OF THE
SENATE FINANCE COMMITTEE

September 26, 1984

Mr. Chairman, I'm Dee Bott, Executive Director of United Way of Albany County, Wyoming -- a position I've held since 1981, the year the Charitable Contributions Law was enacted.

I'd like to tell you a little bit about our county, about Laramie -- where our United Way has its offices -- and the people we look to for support. We're located in the southeast part of the state, and it takes an hour or more travel in any direction to reach a major city. So, in a sense, you could say we're a self-contained area and look primarily within our own boundaries to meet the needs of our people.

Laramie's economic mainstay is the University of Wyoming. In economic terms you could describe the county's population as primarily middle-income. I would say that by-and-large our population's makeup is the one targeted by the designers of the Charitable Contributions Law.

United Way raises funds for 16 member agencies in Albany County. None of these are information and referral agencies: all provide direct human services. The scope of their services benefits every age group. Last year alone those agencies touched the lives of over 25,000 people in our county. When you consider the fact that our total population is just at 30,000 -- and 12,000 of those are University students -- I think you can begin to see what United Way agencies mean to our people.

In the four years that I've been Director, I've seen those agencies struggle with problems generated by the reduction in federal support. The 4 percent reduction in funds for agencies has, because of inflation, handicapped them in their efforts to meet human need, and they've looked increasingly to our United Way and local support to continue to furnish their services.

We believe in local support, and are proud of the manner in which our United Way has responded to increasing demands. But I am concerned as to how Albany County will continue to meet that increasing demand . Our population is a stable one, so we cannot count on large influxes of new people as potential donors. We do not have large industries guaranteeing "fair share" contributions from hundreds of employees. We have many people very generous within their means, but we have no large supply of extremely wealthy people ready to produce checks for thousands of dollars. Indeed, our records show that generally less than one-fourth of the money given in Albany County comes from large business or individual gifts.

Seventy-five percent of the money we raise, therefore, comes from smaller gifts from many individuals in that middle-income group which characterizes the bulk of our population. This group is truly the base of our support, and in our efforts to meet increasing agency needs we are striving to broaden that base. We cannot do this by expecting the same number of donors to give more money, but by encouraging a greater number of people to become donors. The tax benefit of the Charitable Contributions Law is an important tool in accomplishing this. We rely heavily on the appeal of tax deductibility. Our pledge cards advertise that benefit. Participation in our special fund-raising events is enhanced by that benefit. Our volunteers are trained to emphasize that benefit in their solicitations.

To lose this vital incentive just as it is enabling us to encourage more participation would, I believe, hurt our efforts substantially.

I'm not saying that failure to enact the Permanent Charitable Contributions Law will result in failures of United Ways like ours across the country. But if this committee believes in encouraging a renewed commitment from the private sector to support human services at the local level, and to do so successfully, it will not deprive lower and middle-income contributors of a valuable incentive.

I do not believe it coincidental that the year the Charitable Contributions benefit was announced, Albany County United Way, for the first time in a dozen or more years, reached 100 percent of its drive goal, and that that record was repeated in successive campaigns.

I appreciate this opportunity to appear in testimony for Senate Bill 337.

Thank you.

Senator MOYNIHAN. And we welcome LaDonna to these hearings also. I think you were the first Senate wife to appear on behalf of such matters some years ago. And you have become a conglomerate in the interim. [Laughter.]

Mr. Brome, we welcome you. We will take your testimony as included in the record, so just feel free to take part in this conversation.

[The prepared written statement of Mr. Brome follows:]

STATEMENT OF
ROBERT H. BROME
CERTIFIED PUBLIC ACCOUNTANT
AND PRESIDENT OF THE BOARD OF DIRECTORS
UNITED WAY OF ALBANY COUNTY, WYOMING
BEFORE THE
SUBCOMMITTEE ON TAXATION & DEBT MANAGEMENT GENERALLY
OF THE
SENATE FINANCE COMMITTEE

September 26, 1984

Mr. Chairman, I'm Robert Brome, a self-employed Certified Public Accountant and President of the United Way of Albany County, Wyoming. I would like to thank the Subcommittee for allowing me the opportunity to testify in favor of Senate Bill 337.

My experience as a Certified Public Accountant as well as a United Way volunteer for the past six years has placed me in a unique position to observe the efforts of the Charitable Contributions Law. The law has enabled the fundraiser to insure a tax deduction to all contributors, not only those higher-income-bracket individuals who are able to itemize their deductions. Just as the investment tax credit helps to stimulate capital improvements and the residential energy credit has helped to encourage energy conservation, the Contributions deduction for non-itemizers has stimulated giving by lower and middle income individuals.

While the large corporate and individual gifts provide our United Way an excellent base, the bulk of our drive goal comes from the small contributions of local businesses and individuals. Our United Way has made it a policy to encourage gifts of any size because we feel that when people contribute any amount they become involved and take an interest in our agencies which in some way touch virtually every citizen in our community. Just as each vote helps to determine the outcome of any election, each dollar contributed brings us closer to our goal. It is imperative that these people are recognized for their efforts and never made to feel that their contributions are less important than any others. The Contributions deduction, especially when fully phased in by 1986, will place all donors on a par, thus creating an equitable and positive enviroment for giving.

Unlike any other itemized deduction, the Charitable contribution is solely for the benefit of others. The method which allows each taxpayer equal benefit would therefore seem to be a reasonable treatment. In many cases, these donations are helping to support agencies which receive, or had received, allocations of state and federal tax dollars. If the deduction is allowed to terminate after 1986, I fear that a sudden decrease in giving would result causing a decrease in agency services. At a time when our agencies are finding it difficult to provide services to all those in need, any decrease in funding would be devastating.

An additional concern I have is based on the growth in complexity and uncertainly caused by frequent tax law change. Taxpayers better comprehend and consider more simple tax programs which remain unchanged over periods of time. Making permanent the provisions of the Charitable contribution law would enhance taxpayer's understanding and acceptance, and this again would aid United Way in its efforts.

Certainly a major concern of each of us is the growing federal deficit; however, the people in need in our communities cannot and must not be ignored. The abused child, the mentally and physically handicapped, the elderly people living day to day on fixed incomes all deserve our help. We come to Washington not with our hand out for these people, but to offer an alternative which will ultimately help reduce the deficit while not decreasing vital social services. The phase-in of the Contributions deduction was designed to allow a gradual shifting of more of the burden for maintenance of social service agencies from the public sector to the private sector. This alone would seem to be a trading of dollars for dollars. However, through organizations such as the United Way, the donated dollars stay local. They are allocated to local social service agencies by local volunteers. Of each dollar contributed in Albany County, eighty six cents goes directly to the agencies. Who could be better qualified to allocate those funds than the residents of the communities whose daily lives are affected by the agencies receiving the donations? We offer you an alternative which simply makes good sense. The Charitable Contributions deduction offers us the opportunity to prove that we are capable of this task.

Thank you.

Senator **Moynihan**. I'd like to ask each of you in turn—we will just start with Ms. Harris—would you share the view that Mr. O'Connell put forward earlier that this nice formulation, that givers volunteer and volunteers give, and that what this legislation raises, as Ms. Harris suggested, is expanding the base of activities in social programs that has a value of its own above and beyond the services just given? That the equal amounts of money coming from a bureau in Washington would not have the consequences of coming from the community where the services are, in fact, delivered. Could I just ask you that, LaDonna?

Ms. **Harris**. Yes. In fact, Senator, I think time after time in every one of the organizations that I belong to, you can see a marked difference. You see people who contribute then coming forth who are people who are recipients. They contribute to the program that affects them the most. And they have a direct relationship. So there is a—it's a way of participating in our whole social structure. You not only give money, but you do volunteer and make sure that the money is spent in the way that you think it should be.

Senator **Moynihan**. So this involves more than fundraising?

Ms. **Harris**. Yes. Oh, absolutely.

Senator **Moynihan**. Mr. Bramell.

Mr. **Bramell**. I would totally concur. Our givers are the ones that seek information and want to know more about the causes of epilepsy and what to do if someone has a seizure. The public education aspect is greatly enhanced by the more that are involved.

Senator **Moynihan**. And you raised a question earlier which is obviously different cultures, different mores. There was a time when epilepsy was thought of as a sign of seizure by the Gods. I think Julius Caesar was an epileptic, as I recall.

Mr. **Bramell**. Yes.

Senator **Moynihan**. So if you have a problem with stigma, the more people that are involved in supporting you, the more that stigma dissipates, doesn't it?

Mr. **Bramell**. Right.

Senator **Moynihan**. As against if you just got a check from a bureau.

Mr. **Bramell**. Exactly right. Yes, sir.

Senator **Moynihan**. And that problem may be as large as any. I mean how do you know what is going on and do you dare go near. Can you do anything.

Mr. **Bramell**. I totally concur.

Senator **Moynihan**. Mr. Chairman, we were raising this question that LaDonna mentioned that this is more than a question of fundraising. This is a question of involving people in managing social problems. And we are getting very strong testimony.

Ms. Bott reported that since the bill came in, last year, for the first time the United Way in Albany County, WY, reached 100 percent of its goal. And that you emphasize this deduction in your fundraising efforts.

Ms. **Bott**. We emphasize the deduction a great deal. And we ask that our volunteers also emphasize the deduction. We have been very successful the past 3 years, and we are looking forward to a very successful fourth year.

Senator MOYNIHAN. If we get this bill passed.

Ms. BOTT. If we get the bill passed. We are trying very hard to involve more people. And rather than asking people to give more, we are asking more people to give. And by spreading our base of participation, we are more successful because we are involving more people, we are having more people care. And I think that the deductions are going to help that. They continue to help that.

Senator PACKWOOD. Mr. Brome, did you want to testify?

Mr. BROME. Yes. I was a last minute addition, I believe, to this panel. And I do have a brief statement, if we have time.

Senator PACKWOOD. Go right ahead.

STATEMENT OF ROBERT BROME, PRESIDENT OF THE BOARD OF DIRECTORS, UNITED WAY OF ALBANY COUNTY, WY

Mr. BROME. As well as being president of our local United Way, I am also a self-employed certified public accountant. I think that puts me in somewhat of a unique position to testify on legislation relating to not only charitable giving but to tax loss.

For the first time in the number of years that I have been involved, we were able to, with the charitable contributions law, truly tell our contributors that their deductions were tax deductible.

Senator PACKWOOD. What town are you from?

Mr. BROME. I'm also from Laramie.

Senator PACKWOOD. All right.

Mr. BROME. I believe in the past people had been led to believe that deductions or contributions were deductible. However, upon preparation of their tax return, they frequently found out that was, in fact, not the case, and felt somewhat betrayed in their giving.

Now truly it is deductible, and I think that's critical.

In a community such as ours, the large number of our people are nonitemizers because of the middle income nature. Therefore, it is critical to us that the lower- and middle-income people become involved in our United Way, and continue to make their charitable contributions as it does make up the bulk of our drive's goal.

I think it's also important to note that unlike any other itemized deduction, the charitable contribution is for the benefit of others rather than something which has accrued to the benefit of the taxpayer himself. I think that as the law is fully phased in, we will see more giving in the lower- and middle-income areas. And that, again, will be critical to drives such as ours. Critical to our agencies at a time that we find they are unable to provide services to all those people who are in need of those services.

As a public accountant, another concern that I have is the constant changing tax laws. I believe that in testimony heard earlier this summer relating to the potential flat tax, the statement was made that taxpayers better comprehend and consider more simple tax programs which remain unchanged over periods. I certainly support that. And I know the perception and the understanding by the taxpayers of the law is critical to them.

I think we come to you not with our hand out for our agencies, but to offer you the opportunity through the charitable contributions law to allow us to continue to benefit our agencies. And I believe that on a local level, locally administered funds, locally involved volunteers, that we can do an excellent job with our social services. In our community alone, $0.86 of each dollar raised goes directly to the agencies involved.

I thank you.

Senator PACKWOOD. Thank you.

Ms. HARRIS. Mr. Chairman.

Senator PACKWOOD. Yes.

Ms. HARRIS. I failed to do something I wanted to do earlier. And that is that I have a chapter from a book, "On the Source of Violence," and it's a chapter by Dr. Wilton Dillon from the Smithsonian Institute. There is a whole psychology on giving that contributes a great deal to one's society, and I would like to submit that along with my testimony as part of this hearing.

Senator PACKWOOD. It will be in the record, LaDonna.

Bill, do you have any questions?

Senator BRADLEY. Mr. Chairman, I only have one question, and I would like each of the panelists to be able to respond to it. And that is in your experience how much of the giving that has gone to your institutions has occurred, do you feel, because of the increased facility of giving through the deduction, versus what the giving was prior to the allowing of nonitemizers to deduct?

Ms. HARRIS. Well, one of the things—some of the programs that I have been involved in have been supported by Government contracts. And with the cutbacks in Federal spending, institutions like mine and those that I serve on the board of, have really used this in a most dramatic way. These are social service programs for women and children. And they have been most effective to my knowledge.

Mr. BRAMELL. We have experimented twice, as I testified a few moments ago, on a sample mailing of 5,000 mailings last November and 5,000 mailings this March. And the indications are from those mailings that there is increased giving if there is knowlegde of this ability to have a deduction without itemization. In the November mailing it was 7.1 percent increase, and in March, 2.2 percent.

The law has been in effect too short a time for us, with our limited facilities, to make a finite evaluation. But our belief is that it will have very tremendous impact upon us favorably, if we can eliminate the sunset provision.

Senator PACKWOOD. Russell.

Senator LONG. Let me say that I appreciate seeing you here again, Ms. Harris.

Ms. HARRIS. Thank you.

Senator PACKWOOD. Thank you. I have no more questions. We appreciate you coming.

Ms. HARRIS. Thank you.

Mr. BRAMELL. Thank you.

Senator PACKWOOD. On this bill we will conclude with a panel of Conrad Teitell, representing the National Council of the Churches of Christ; Ann Winslow, representing the Junior Leagues; and Leonard Quinn, representing the National Conference of Catholic Charities.

I might request of you the same thing I did of the first panel. Congressman Conable is on his way, I might set you aside just a moment and let him testify.

Mr. Teitell.

STATEMENT OF CONRAD TEITELL, ON BEHALF OF THE NATIONAL COUNCIL OF THE CHURCHES OF CHRIST, WASHINGTON, DC

Mr. TEITELL. Mr. Chairman, members of the committee, thank you for this opportunity to make our views known. Mikel Rakozi (phonetic), a former general secretary of the Hungarian Communist Party once said:

> If your opponent has the salami that you wish to have, you must not grab it for he will defend it. Rather you must slice a very small piece, and he will hardly notice. And if he does, he won't care that much. And then you must take another slice and another slice and slowly but surely that salami will pass from his possession into yours.

In recent years with the increased number of taxpayers taking the standard deduction rather than itemizing and with the decrease in the top marginal rates for those who do itemize, the tax incentives for those who make charitable gifts to worthwhile causes have been sliced and sliced and sliced away.

The introduction of the charitable contributions law a few years ago started to return those slices. And by 1986 when the law is fully enforced, the tax incentives to charitable contributions will be available to all American taxpayers. If this bill is allowed to die, however, on January 1, 1987, that salami will be grabbed away from three-quarters of the American taxpayers.

People don't contribute because of the tax incentives, but once they decide to contribute, the tax law makes it possible to give more than initially imagined. I think that I can really sum up what everybody has been saying here all along by saying what is good for the giver is good for the country.

So I urge you not to let this bill die. Let's win this one for the giver. [Laughter.]

Thank you.

Senator PACKWOOD. Well done. [Laughter.]

[The prepared written statement of Mr. Teitell follows:]

STATEMENT REGARDING S. 337 -- A BILL THAT WOULD MAKE PERMANENT THE CHARITABLE CONTRIBUTIONS LAW (CCL), ALLOWING TAXPAYERS WHO TAKE THE STANDARD DEDUCTION TO DEDUCT THEIR CHARITABLE GIFTS

Presented to: Senate Finance Committee, Subcommittee on Taxation and Debt Management

Honorable Bob Packwood, Chairman

Submitted by: The National Council of the Churches of Christ in the U.S.A.

The member communions of the Council are: African Methodist Episcopal Church; African Methodist Episcopal Zion Church; American Baptist Churches in the U.S.A.; The Antiochian Orthodox Christian Archdiocese of North America; Armenian Church of America; Christian Church (Disciples of Christ); Christian Methodist Episcopal Church; Church of the Brethren; Coptic Orthodox Church in North America; The Episcopal Church; Friends United Meeting; General Convention, The Swedenborgian Church; Greek Orthodox Archdiocese of North and South America; Hungarian Reformed Church in America; Lutheran Church in America; Moravian Church in America, Northern Province and Southern Province; National Baptist Convention of America; National Baptist Convention, U.S.A., Inc.; National Council of Community Churches; Orthodox Church in America; Patriarchal Parishes of the Russian Orthodox Church in U.S.A.; Philadelphia Yearly Meeting of the Religious Society of Friends; Polish National Catholic Church of America; Presbyterian Church (U.S.A.); Progressive National Baptist Convention, Inc.; Reformed Church in America; Serbian Eastern Orthodox Church; Syrian Orthodox Church of Antioch; Ukrainian Orthodox Church in America; United Church of Christ; The United Methodist Church.

Oral Testimony by: Conrad Teitell, Member Prerau & Teitell
New York City

Dated: September 26, 1984

TESTIMONY

Mr. Chairman and Members of the Committee:

I am Conrad Teitell, a member of the New York City law firm of Prerau & Teitell, and appear as special counsel to The National Council of the Churches of Christ in the U.S.A., the largest ecumenical organization in the United States (31 communions with over 30 million members).

The member communions of the Council are: African Methodist Episcopal Church; African Methodist Episcopal Zion Church; American Baptist Churches in the U.S.A.; The Antiochian Orthodox Christian Archdiocese of North America; Armenian Church of America; Christian Church (Disciples of Christ); Christian Methodist Episcopal Church; Church of the Brethren; Coptic Orthodox Church in North America; The Episcopal Church; Friends United Meeting; General Convention, The Swedenborgian Church; Greek Orthodox Archdiocese of North and South America; Hungarian Reformed Church in America; Lutheran Church in America; Moravian Church in America, Northern Province and Southern Province; National Baptist Convention of America; National Baptist Convention, U.S.A., Inc.; National Council of Community Churches; Orthodox Church in America; Patriarchal Parishes of the Russian Orthodox Church in U.S.A.; Philadelphia Yearly Meeting of the Religious Society of Friends; Polish National Catholic Church of America; Presbyterian Church

(U.S.A.); Progressive National Baptist Convention, Inc.; Reformed Church in America; Serbian Eastern Orthodox Church; Syrian Orthodox Church of Antioch; Ukrainian Orthodox Church in America; United Church of Christ; The United Methodist Church.

Thank you for this opportunity to present our views. I speak to you on the basis of formal actions taken by the Governing Board of the National Council of Churches of Christ in the U.S.A. -- a deliberative body made up entirely of representatives of the constituent communions in proportion to their size and support of the National Council of Churches and chosen by each of those communions according to its own modes of selection.

I. Please don't let the sun set on the charitable deduction for nonitemizers. Voluntary charitable gifts benefit our society and elimination of the charitable deduction for nonitemizers would reduce those gifts and diminish the ability of charitable organizations to serve the nation.

Churches, schools, hospitals, health, social welfare and other publicly supported charitable organizations perform a vital role in our nation. If the services rendered to the general public by charitable institutions were to be diminished because of reduced private support, the public would suffer immeasurably. The importance of the services to the nation rendered by the institutions represented at these hearings need not be reviewed. They are well known. We do emphasize that if their services to the general public are to continue and expand to meet new needs, tax incentives to those who support worthy charitable organizations should be increased, not decreased.

Historical, philosophical and practical reasons why current tax benefits for those donors who take the standard deduction should be continued. In no country is private philanthropy as important a part of the national character as in the United States. The inception early this century of our federal tax laws encouraged rather than curbed the generosity of Americans. Since 1917 the government has stimulated private voluntary support by granting tax deductions to those who give to churches, schools, hospitals, health, social welfare and other publicly supported charitable organizations.

Congress has continually increased the tax incentives for charitable giving, starting out with a 15% ceiling on charitable gifts and increasing it over the years to the present 50% of adjusted gross income ceiling -- with a five year carryover for any "excess."

Permitting those who take the standard deduction to deduct their charitable gifts was a giant step foward and allowing that deduction to expire would tell the vast majority of Americans who take the standard deduction that the Federal government no longer wants to encourage private philanthropic support.

The government has practical reasons for encouraging voluntary financial support. We need the services provided by churches, schools, hospitals, health organizations and other charities. If support for their work does not come from private sources, from where will it come?

Charitable contributions by concerned citizens have enabled educational institutions to maintain freedom of academic inquiry. They have insured separation of church and state. Voluntary charitable contributions have offered the means of maintaining the historical balance between government services and voluntary initiatives, keeping America the antithesis of a totalitarian society. The charitable contribution deduction enables our citizens to participate in making decisions, rather than concentrating further power in the hands of the government.

The increased tax incentives for charitable gifts over the years has resulted in expansion and development of charitable organizations which now more than ever depend upon private philanthropic support. The Congress has stated on many occasions that the government is compensated for any loss of revenue by its relief from financial burdens which otherwise would have to be made by appropriations from public funds and by the benefits resulting from promotion of the general welfare.

If it is Congressional intent to reduce the broad base support for our charitable organizations by allowing the charitable deduction for nonitemizers to die, the citizens should be so advised -- and we ask Congress to tell us how it plans to replace the vital funds received from the private sector.

As the Treasury itself has said: "Private philanthropy plays a special and vital role in our society. Beyond providing for areas into which government cannot or should not advance (such as religion), private philanthropic organizations can be uniquely qualified to initiate thought and action, experiment with new and untried ventures, dissent from prevailing attitudes and act quickly and flexibly.

"***In doing so they enrich the pluralism of our social order***" (Treasury report on Private Foundations, Committee on Ways and Means, U.S. House of Representatives, Washington: U.S. Government Printing Office, February 2, 1965, P. 5.)

II. A charitable deduction for those who take the standard deduction does not create a special rule for charitable gifts.

When Congress allowed a charitable deduction for nonitemizers, it did not blaze a new Internal Revenue Code trail. The Code then allowed -- and continues to allow -- some deductions to all taxpayers whether or not they itemize. For example, moving expenses and alimony are allowed as deductions from gross income. Those deductions are not slated to expire on January 1, 1987 -- neither should the charitable deduction.

III. Even if allowing a charitable deduction for nonitemizers were to create a special rule (not the case), that rule would be justified.

Allowing a charitable deduction for those who take the standard deduction (as well as those who itemize) is based on the charitable deduction being different from all other deductions -- and thus entitled to special treatment.

Common rationales for tax deductions are (1) to alleviate the impact of extraordinary unanticipated expenses, and (2) to encourage particular activities. Among deductions enacted for the first reason are those for extraordinary medical expenses and casualty losses. A deduction for the latter reason is interest on home mortgages, designed to promote home ownership. Both types of deductions involve expenditures to satisfy a taxpayer's *personal* needs. The charitable deduction, however, provides an incentive for a private expenditure *which benefits the public*.

The charitable contribution differs from other expenditures in that it is motivated by generosity, not by economy. Other deductions redound to an individual taxpayer's benefit. But, a charitable donor would be economically ahead by not making a charitable gift because the tax savings are smaller than that which he or she parts with. Charitable contributions are voluntary and benefit our nation.

IV. Continuing to allow a charitable deduction for nonitemizers keeps the deduction democratic and encourages lower and middle income taxpayers to support our nation's charitable institutions.

Increases in the standard deduction in recent years, elimination of some deductions and higher floors on the casualty and medical expense deductions have decreased by millions the number of taxpayers who itemize their deductions. The taxpayers who switched to the standard deduction still have tax incentives to make charitable gifts. That incentive to contribute will be lost if the charitable deduction for nonitemizers is allowed to die. Most individuals look at the charitable deduction not as a way to reduce the out-of-pocket cost of their gifts, but as a way to give more than would otherwise be possible.

V. The increasing use of the standard deduction affects the constituency of churches, particularly because the bulk of church support comes from lower and middle income citizens -- those who do not itemize.

The prime motive for contributing to the church is to further its work. The charitable deduction enables church donors to give more than would otherwise be possible.

Making the charitable deduction for nonitemizers permanent will continue to foster greater citizen initiative and self-reliance and thus strengthen our democracy. Continuing the charitable deduction for nonitemizers will enable schools, colleges, universities, hospitals and homes for orphans and for the aged to flourish.

Churches have been among the foremost founders of those institutions, and are concerned for their health and future. That health and future are heavily dependent upon their ability to raise adequate financial support by voluntary contributions from the society at large, especially in light of decreased support from federal, state and local governments.

The charitable deduction for nonitemizers has already helped many charities make up part of the loss of government support. Making the law permanent will provide a dependable source of support to assure the future of our nation's charities and the citizens they serve.

Thank you again for this opportunity to present our views.

Senator PACKWOOD. Barber, you just missed the best one liner of the week. [Laughter.]

Mr. CONABLE. I'll get it later.

Senator PACKWOOD. I'm going to ask the panel to step aside just a moment and let Congressman Conable testify now.

Barber, Mr. Teitell, representing the National Council of Churches of Christ, said this is a good bill, and let's win one for the giver.

Mr. CONABLE. Good.

Senator PACKWOOD. We have before us Barber Conable, who is retiring this year from the Congress after a generation of service. I think I can say without contradiction, he is the best legislator I have met in the House or the Senate in the 16 years that I have been in the Congress.

Mr. CONABLE. Thank you very much, Mr. Chairman, for such hyperbole. Please don't use that generation line.

That sounds sort of like a——[Laughter.]

I do think that 20 years is a nice round number, but there are some people like perhaps Senator Long around here who disagree that it's not round enough.

Senator LONG. I think you are certainly one of the best.

Mr. CONABLE. No. That wasn't what I was suggesting. [Laughter.]

Senator LONG. I hope you will settle for one of the best.

Mr. CONABLE. I wouldn't expect a straight encomium from you. [Laughter.]

STATEMENT OF HON. BARBER B. CONABLE, JR., U.S. REPRESENTATIVE, STATE OF NEW YORK

Mr. CONABLE. Mr. Chairman, and distinguished members of the committee, it's a pleasure to be here today, and to have the opportunity to testify on your bill, S. 337, a bill to make permanent the deduction for charitable contributions for nonitemizers.

As you are aware, I have introduced a companion bill with Representative Gephardt in the House. It's H.R. 1315. This bill has broad bipartisan support in the House of Representatives with 262 Members of the House cosponsoring, representing all shades of political opinion. There is evidence of the bipartisan nature of the sponsorship. There are 111 Republican sponsors and 151 Democratic sponsors.

As you are aware also, this provision was enacted as part of the Economic Recovery Tax Act of 1981 and allows nonitemizers to take a deduction for charitable contributions. The deduction is phasing in over a 5-year period, but will terminate at the end of 1986. Both your bill, S. 337, and H.R. 1315 would eliminate the 1986 sunset provision.

If I may digress a moment from my written statement. I think the phase in has to a degree been unfortunate. It was one of the necessary compromises to get the enactment of the measure in the first place. But, of course, for several years we had a very modest cap. This year, it will be 25 percent of contributions up to $300 for a total of $75. Still very modest. Next year, it will be 50 percent of the actual contributions made. And in 1986, it will be a full deduction. I would deeply regret seeing the Congress extend this measure with a cap; particularly, the kind of low cap we have had, which amounts to a giveaway, and doesn't provide any real incentive for charitable giving.

IRS can't afford to audit everybody who claims a $50 or a $75 contribution to charity on the short form, above the line, which is what this deduction is all about. And, thus, in fact, it's not a real incentive to give. Nor is it an administrable provision of the law. It would be, in my view, almost better not to have anything than to continue with a very low cap.

And so I hope we will take the next logical step, having fully phased it in for 1 year only, to extend it as a true incentive and not as one of those administrative giveaways that results when you put a very low cap on something and the IRS has no opportunity really to audit it on a cost effective basis.

So the law is still relatively new. We are receiving data showing the taxpayers are responding to this new deduction by giving more to charitable organizations. In 1980, research by Dr. Martin Feldstein, whom some of you will remember, indicated that the new law when fully implemented would raise giving by more than $5 billion. Data from charitable groups show that contributors who are aware of the provision are giving substantially more than those who are unaware of the provision. The powerful potential this provision has to increasing charitable giving is certainly highlighted when one realizes that approximately 70 percent of all individual income tax filers are nonitemizers. I'm not saying they are all on the short form because many people don't qualify for the short form who still do not itemize their deductions. But, obviously, it's the itemizing of deductions which gives people incentive to contribute to charity, if we don't have this provision in the law.

The people of our Nation are blessed with tens of thousands of community-based charitable organizations. There is no question about the inestimable value of these organizations both to the millions of recipients of their services and to the millions of volunteers who help to do the work. The ability of many of these organizations to survive and to provide services is dependent in part on income that will be generated by the charitable contributions deduction for nonitemizers.

If I might digress again briefly. We all know that different charities participate in the mix of charitable giving in different degrees as you move up through the economic levels of the American people. This provision would be a particular benefit to churches and to the broadly based community charities like the United Ways because statistical evidence can be gathered to show that people in lower income groups, generally the nonitemizers, although not automatically—in the lower income groups give heavily to those charities, while people in the higher income groups give heavily to museums, art galleries, and universities.

Now such a generalization isn't fair, but I think it's important to understand that giving the incentive across the economic boundaries of wealth in this country does create a different mix of charitable giving and so it's of particular interest to the churches and the broadly based community charities to have this particular provision in the law.

During 1982, I was privileged to serve as the Chairman of the Impediments Committee of the President's Task Force on Private

Sector Initiatives. As part of our review of impediments, the committee recommended the nonitemized deduction be made permanent. In addition, it recommended that Government and interested groups should continue to make taxpayers aware of this new deduction for people who do not itemize their other deductions. This recommendation was accepted by the task force, reported to the President on December 8, 1982. This is further evidence of the importance of making this provision permanent.

As a further point, I would note the impact of the tax system on charitable giving should be taken into account to the extent the Congress considers major tax restructuring proposals in the future. Indeed, it is taken into account by the sponsors of even some of the radical tax simplification proposals now before the Congress. Both Bradley-Gephardt and Kemp-Kasten include the continuation of the charitable contribution deduction. And, obviously, if we accept any one of those, we are moving to a universal short form of taxation.

The Impediments committee noted that a development of major tax reform could, in fact, result in the creation of new impediments to private sector initiatives, and recommended that a major restructuring of the tax system should include appropriate modification tax provisions governing charitable giving to ensure that no negative impact results to the charitable giving from such restructuring.

Finally, I would like to emphasize one of the major concerns I have with respect to making permanent the nonitemized charitable deduction provision. A risk which exists if such a provision is not extended is that charitable giving will become more and more a practice of the wealthy only to the extent that tax benefits to this sector of taxpayers will far exceed that which exists for nonitemizers and, therefore, less wealthy taxpayers. A possible result of this development is that the electorate and in particular Members of Congress may come to look on the charitable contribution provision as a loophole, as they have with other incentives which have been created through the tax code, when only certain classes of taxpayers utilize them. The negative impact which this could have on the charitable movement is immeasurable and should be avoided at all costs. Reauthorizing or making permanent the nonitemized charitable deduction would certainly go a long way toward avoiding such a development.

For that reason and for all the other reasons I have indicated here, I would certainly encourage the next Congress to make permanent this important provision.

I must say, Mr. Chairman, that I have some doubt about the achievability of radical tax simplification. It's very difficult to get there from here. And, thus, I'm by no means sure that we are going to do it. However, the pressure toward simplification is going to be there regardless of whether we take Kemp-Kasten or a Bradley-Gephardt type step.

And one of the things that people learn when they have to deal with the great complexities of the tax law is that one of the easiest ways to simplify the tax law is to increase what we used to call the standard deduction. If we had followed the recommendations of President Carter, for instance, in 1978, the people then using the standard deduction would have increased from roughly 75 percent of the taxpayers to 84 percent of the taxpayers. Now, quite obviously, if a tax incentive is being used by only 16 percent of the taxpayers, it becomes more and more to look like a loophole. And to consider charitable giving a loophole because only a limited number of people would have it available to them as a tax incentive would be, I think, fraught with some peril for this country, which depends as it does so extensively on the pluralism of our system, and not the benefits that can be delivered only by central planning and central government programs of one sort or another.

I certainly thank you, Mr. Chairman, for the opportunity to appear here today and commend you for calling this hearing. And I would welcome any questions you might have.

[The prepared written statement of Representative Conable follows:]

STATEMENT OF THE HONORABLE BARBER B. CONABLE, JR.
BEFORE THE U.S. SENATE COMMITTEE ON FINANCE
SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT
SEPTEMBER 26, 1984

Mr. Chairman, it is a pleasure to be here today to have the opportunity to testify on your bill S. 337, a bill to make permanent the deduction for charitable contributions for non-itemizers. As you are aware, I have introduced a companion bill with Representative Dick Gephardt, H.R. 1315. This bill has broad bi-partisan support in the House of Representatives with over 262 members of the House cosponsoring, representing all shades of political opinion. As evidence of the bi-partisan nature of the sponsorship, there are 111 Republican sponsors and 151 Democrat sponsors.

As you are aware, this provision was enacted as part of the Economic Recovery Tax Act of 1981 and allows non-itemizers to take a deduction for charitable contributions. The deduction is phasing-in over a five year period but will terminate at the end of 1986. Both your bill, S. 337, and H.R. 1315 would eliminate the 1986 sunset provision.

Though this law is still relatively new, we are receiving data showing that taxpayers are responding to this new deduction by giving even more to charitable organizations. In 1980, research by Dr. Martin Feldstein indicated that the new law, when fully implemented, would raise giving by more than $5 billion. Data from charitable groups shows that contributors who are aware of the provision are giving substantially more than those who are unaware of the provision. The powerful potential this provision has to increase charitable giving is certainly highlighted when one realizes

THAT APPROXIMATELY 70% OF ALL INDIVIDUAL INCOME TAX FILERS ARE NON-ITEMIZERS.

THE PEOPLE OF OUR NATION ARE BLESSED WITH TENS OF THOUSANDS OF COMMUNITY-BASED CHARITABLE ORGANIZATIONS. THERE IS NO QUESTION ABOUT THE INESTIMABLE VALUE OF THESE ORGANIZATIONS, BOTH TO THE MILLIONS OF RECIPIENTS OF THEIR SERVICES AND TO THE MILLIONS OF VOLUNTEERS WHO HELP DO THE WORK. THE ABILITY OF MANY OF THESE ORGANIZATIONS TO SURVIVE AND TO PROVIDE SERVICES IS DEPENDENT IN SUBSTANTIAL PART ON INCOME THAT WILL BE GENERATED BY THE CHARITABLE CONTRIBUTIONS DEDUCTION FOR NON-ITEMIZERS.

DURING 1982 I WAS PRIVILEGED TO SERVE AS THE CHAIRMAN OF THE IMPEDIMENTS COMMITTEE OF THE PRESIDENT'S TASK FORCE ON PRIVATE SECTOR INITIATIVES. AS PART OF OUR REVIEW OF IMPEDIMENTS, THE COMMITTEE RECOMMENDED THAT THE NON-ITEMIZED DEDUCTION BE MADE PERMANENT. IN ADDITION, IT RECOMMENDED THAT GOVERNMENT AND INTERESTED GROUPS SHOULD CONTINUE TO MAKE TAXPAYERS AWARE OF THIS NEW DEDUCTION FOR PEOPLE WHO DO NOT ITEMIZE THEIR OTHER DEDUCTIONS. THIS RECOMMENDATION WAS ACCEPTED BY THE TASK FORCE AND REPORTED TO THE PRESIDENT ON DECEMBER 8, 1982. THIS IS FURTHER EVIDENCE OF THE IMPORTANCE OF MAKING THIS PROVISION PERMANENT.

AS A FURTHER POINT, I WOULD NOTE THAT THE IMPACT OF THE TAX SYSTEM ON CHARITABLE GIVING SHOULD BE TAKEN INTO ACCOUNT TO THE EXTENT THE CONGRESS CONSIDERS MAJOR TAX RESTRUCTURING PROPOSALS IN THE FUTURE. THE IMPEDIMENTS COMMITTEE NOTED THAT SUCH A DEVELOPMENT COULD IN FACT RESULT IN THE CREATION OF NEW IMPEDIMENTS TO PRIVATE SECTOR INITIATIVES AND RECOMMENDED THAT A MAJOR RESTRUCTURING OF

THE TAX SYSTEM SHOULD INCLUDE APPROPRIATE MODIFICATIONS IN TAX PROVISIONS GOVERNING CHARITABLE GIVING TO ENSURE THAT NO NEGATIVE IMPACT RESULTS TO CHARITABLE GIVING FROM SUCH RESTRUCTURING.

FINALLY, I WOULD LIKE TO EMPHASIZE ONE OF THE MAJOR CONCERNS I HAVE WITH RESPECT TO MAKING PERMANENT THE NON-ITEMIZED CHARITABLE DEDUCTION PROVISION. A RISK WHICH EXISTS IF SUCH A PROVISION IS NOT EXTENDED IS THAT CHARITABLE GIVING WILL BECOME MORE AND MORE A PROVINCE OF THE WEALTHY TO THE EXTENT THAT THE TAX BENEFITS TO THIS SECTOR OF TAXPAYERS FAR EXCEED THAT WHICH EXIST FOR NON-ITEMIZERS AND, THEREFORE, LESS WEALTHY TAXPAYERS. A POSSIBLE RESULT OF THIS DEVELOPMENT IS THAT THE ELECTORATE AND, IN PARTICULAR MEMBERS OF CONGRESS, MAY COME TO LOOK ON THE CHARITABLE CONTRIBUTION PROVISION AS A "LOOPHOLE" AS THEY HAVE WITH OTHER INCENTIVES WHICH HAVE BEEN CREATED THROUGH THE TAX CODE WHEN ONLY CERTAIN CLASSES OF TAXPAYERS UTILIZE THEM. THE NEGATIVE IMPACT WHICH THIS COULD HAVE ON THE CHARITABLE MOVEMENT IS IMMEASURABLE AND SHOULD BE AVOIDED AT ALL COSTS. REAUTHORIZING OR MAKING PERMANENT THE NON-ITEMIZED CHARITABLE DEDUCTION WOULD CERTAINLY GO A LONG WAY TOWARDS AVOIDING SUCH A DEVELOPMENT. FOR THAT REASON, AND FOR ALL THE OTHERS I HAVE INDICATED HERE, I WOULD CERTAINLY ENCOURAGE THE NEXT CONGRESS TO MAKE PERMANENT THIS IMPORTANT PROVISION.

I CERTAINLY THANK YOU MR. CHAIRMAN FOR THE OPPORTUNITY TO APPEAR HERE TODAY AND COMMEND YOU FOR CALLING THIS HEARING. I WOULD BE GLAD TO ANSWER ANY QUESTIONS YOU MAY HAVE.

Senator PACKWOOD. One question, Barber. On the increase in the standard deduction, I think there is some merit in it, but what difference would it make in this situation? The wealthy, as you correctly described, give to the art museums and the opera. The middle and lower income give to the Baptist Church and the YMCA and all of the panoply of activities that make this country go. So long as you can take this deduction, whether or not you take the standard deduction, what difference would it make?

Mr. CONABLE. Well, if you can take this deduction, that's fine.

Senator PACKWOOD. Oh, all right.

Mr. CONABLE. I'm suggesting that if we don't make it permanent or if we let it go for fiscal reasons or for any other reason, quite frankly, then you have a narrowing band of people who can participate in the tax incentive for charitable giving.

Now, Mr. Chairman, that carries with it all kinds of social implications. Not just the implications of survival of the nonprofit private sector. Quite frankly, when people give to a charity, they tend also to feel a much greater vested interest in the continuance of that charity and the work of that charity and tend to volunteer more.

If you look at the traditional, let's say, university board, you will find it's made up almost entirely of those people who because of significant charitable contributions potential, can be expected to want to memorialize themselves in bricks and mortar for their old alma mater. Now that's not bad, and I certainly don't want to discourage wealthy people from giving either. But I think broadening the base of philanthropy is something that is extremely important to a country that depends as much on the private nonprofit sector as ours does for the plural problemsolving we like to think that's part of a caring society.

Senator PACKWOOD. Pat.

Senator MOYNIHAN. Yes, indeed, we could have saved everybody trouble just by having Barber come in first and sum it all up. [Laughter.]

Senator MOYNIHAN. Bryan O'Connell made the point nicely that you just made. That volunteers give and givers volunteer.

Mr. CONABLE. That's right.

Senator MOYNIHAN. And that the correlation is very strong.

But let me ask you about one point that the chairman made here. And I think you know, but we heard very good testimony from Charles Clotfelter of the National Bureau of Economic Research, who is continuing the work that Marty Feldstein did at the NBER on the rates of elasticity of these givings. And these numbers hold up.

Senator Packwood was saying that of all the predictions made about the different provisions in 1981 tax bill, our predictions are the only ones that seem really to have come out about as we expected. Not unexpectedly, although it wasn't part of our particular provision, the reduction in the rates, the high rates, has led to a very striking fall off in the—there was a very sharp reduction, 16 percent, in the contributions of persons with incomes over $200,000. On the other hand, total personal giving in 1983 went up 11 percent. And so this moving across the income boundaries, the spreading to a more Democratic contribution pattern, is very real.

I would like to ask you this: Am I correct that we won't have any problem with this legislation except from the Treasury Department?

Mr. **Conable**. Fiscal concerns are the only concerns that I can think of that could possibly militate against making it permanent.

Senator **Moynihan**. But you told me something that I didn't know. That there was an impediments committee established by the administration. Could you tell us just a bit more about that?

Mr. **Conable**. It was a Task Force on Private Sector Initiatives, which had a 1-year life. And which was designed to try to figure out ways to encouarge more private giving at a time when, for fiscal reasons, the Government was having to retrench to some degree.

Senator **Moynihan**. Yes.

Mr. **Conable**. And the committee of that task force that I chaired was the impediments committee. Many of the provisions that were a part of the 1984 Tax Act were codifications, at least as the House bill emerged, codifications of the recommendations of that subcommittee. And included among that, among the recommendations, was the strong recommendation that the above-the-line charitable contribution be made permanent, and be accepted as a permanent part of the law.

Senator **Moynihan**. Barber, could you get us a copy of that so that maybe we could make it part of this record? I'm sure there is a Treasury official around and we would like to be able to lay something at him.

Mr. **Barber**. Yes. And the Treasury official will understandably be concerned about fiscal issues. And I don't deny the——

Senator **Moynihan**. The White House, Treasury.

Mr. **Conable**. Well, however, let me say that it is a strong part of the belief of the President, and I think sometimes he overstates this possibility, that at a time when we have to retrench Government programs, it's terribly important to try to encourage the private sector to pick up part of the burden. Now that's done in many ways. But in a responsive society, pluralism is terribly necessary. And the pluralism in the problem solving process, which is carried on at the foundation and 501(c)(3) level is, I think, a very significant part of the social ferment of our society. It's part of the cutting edge of change, and of human concern that we like to think is characteristic of American life. And, thus, I do believe that it's entirely consistent to put a very high priority on extending the incentives for charitable giving to those who otherwise would not have any.

And that's what this is all about. I don't think for a minute, Mr. Chairman, that people would stop giving if they didn't have a tax incentive to do so. But incentives have been a part of our tradition long before the Homestead Act and the kinds of incentives that encouraged people to break the sod on the western plain and do all the other things that are part of the growth and development of America and the American way of life.

And, clearly, tax incentives are one of the opportunities we have here to express national values which have come to be traditional in America. Part of that is the charitable incentive, the desire to benefit one's neighbor through volunteer work and through contributions. And this is an important step in broadening the base of those values through the incentive to give.

Senator PACKWOOD. Russell.

Senator LONG. Mr. Conable, even though you and I have differed on some——

Mr. CONABLE. I can think of only one thing we have differed on lately, and I'm willing to forget it if you are. [Laughter.]

Senator LONG. I'm not going to forget it. [Laughter.]

I'm going to keep right on working on it. The only compensating fact I find about you retiring from the Senate is that you won't be here to fight me on my ESOP proposal. But with that exception, I think we agree on most things.

Mr. CONABLE. I even take it as a compliment that you say I'm retiring from the Senate. [Laughter.]

Senator LONG. Well, let me just ask you this because you and I have, I think, agreed on the general principle of fiscal responsibility. We might differ on some of the details, but I think on the general problem we agree.

Now you were on that gang of 17, I believe, that worked out of the White House.

Mr. CONABLE. Yes, sir.

Senator LONG. We worked many hours. And you and I both attended many, many sessions down there just hoping that we would be able to put together something to bring stability and responsibility to this budget.

Now I assume that you are not going back with Government when you leave here. You have no plans to be part of the next administration.

Mr. CONABLE. I don't, and I don't know of anybody else that does either.

Senator LONG. Deal with those lush fields of free enterprise, if you are going to be active any further.

Now would you be so kind as to give us your thoughts as to what you would suggest that we try to do about bringing the budget into a nearer balance at the beginning of this next administration? That's this election, because it seems to me as though nothing is going to be accomplished between now and then.

Mr. CONABLE. That's an encompassing question, and I'm interested that you would hook it onto this modest issue.

Senator LONG. Well, this might be my last chance to ask you publicly, and I would appreciate it if you would respond.

Mr. CONABLE. Well, I think we've got to be tough across the board. I don't think there's any doubt of that at all. That we have got to inevitably approach the fiscal issue on a package basis. That different parties and different Presidents would put different emphasis in such a package, but it's clear that we have got to deal with both revenue and expenditure issues.

I don't have any doubt that the tax law itself will be—there'll be movement toward the elimination—reduction—of preference of one sort or another. But I think the reduction of preference is likely to come in those areas for which there is not the kind of broad concensus that there is with respect to charitable giving. And as evidence of that, I offer you the Kemp-Kasten and Bradley-Gephardt provisions, which both retain a preference about which there is a strong concensus on charitable giving.

And, thus, I think that while we are likely to have a package approach, including both revenue increases and spending cuts—indeed, on both sides of the aisle—it's probable that people will not vote for any resolution of our fiscal embarrassment that puts the total burden on just one side of the fiscal equation.

I think it's fairly clear that's not going to happen. And I don't believe—I believe, Senator, that you are not asking me—would you cut agriculture? Of course, I would cut agriculture. Would you cut defense? Of course, I would cut defense. Would you cut social programs? I think we have got to put pressure on the growth of social programs, clearly. But that's not the issue. The issue is how does this fit into the fiscal picture itself. And my impression is that while we are likely to deal with tax preference as a revenue loser, we are not likely to change those preferences about which there is a strong concensus.

And I don't see how anyone can object to giving tax preference as broad a base as possible. We have had an increasingly narrow base of preference in charitable contributions. As long as we have increased the so-called standard deduction constantly, reducing therefore the number of people with a tax incentive to give to charity, it is desirable to have people of all walks of life see the value to them in contributing to the plural problemsolvers that make up the nonprofit private sector.

Senator LONG. It seems to me that we would have very little difficulty persuading the American people that what we are doing is reasonable and that they should go along with it and accommodate themselves to it if we had a reasonable bipartisan support to a program that cuts spending and raises taxes as well.

Now we, on this committee, have not been as optimistic about that 3-for-1 ratio as the President and others have been. The last time we worked on it here, we tended to come down on a ratio of about 50–50. So it looked to us as if you had to make a huge reduction of the deficit, you would have to do about half of it with taxes.

But as long as the taxes are at least as much as the spending cuts, and vice versa—my staff always tells me, "For Pete's sake, mention the spending cut first. Put it out front and the taxes behind."

Mr. CONABLE. I think there is some virtue in that.

Senator LONG. But as long as the spending cut is as big or bigger than the tax part of it, and the tax burden is spread across a broad segment of the American population so that in effect everybody pays some of it, then I don't think that we would find any overwhelming political problem about passing such a measure.

Mr. CONABLE. I tend to agree with you, Senator. I am not what could be described as a formula politician. I don't believe there is any particular virtue in a 3-to-1 or a 4-to-1 or a 2-to-1 or even a 1-to-1 margin.

I think, however, if you are asking people to impose additional burdens on taxpayers that it is wise to—if the major problem is perceived as deficits—it is wise also to give them some assurance that raising revenues will not signal a new burst of spending. And, therefore, I believe that it's absolutely essential, whichever approach you take, whichever side of the fiscal equation you are working on, to give some assurance of evenhandedness. In fact, there are different constituencies for Government program and for taxpayers. And any process—like the process that Senator Moynihan and I worked on so long relative to the resolution of the Social Security problem—it was absolutely essential there that we create not just the reality, but the appearance of evenhandedness. Where we were dealing with such sensitivity, we had to spread the pain around. It's my perception after 20 years here—and I'm sure it's yours also—that the Congress moved with joy and with solidarity to distribute surpluses; but that deficits are much more difficult to distribute and you distribute them only by giving some assurance that the pain will be equally felt by a wide range of Americans.

And I think that's what you are going to have to do fiscally as well. However, while I say that, I must acknowledge that there are certain areas of the Tax Code about which there is a much clearer concensus than there is some of those more arcane preferences, which in some cases have become historic only; or in other cases, benefit a relatively few number of people, and do not seem consistent with the overall philosophy of representative government and American democracy, which Americans like to think is as broad as possible.

Senator LONG. I think that's very good advice, and I will pass it along to our colleagues. [Laughter.]

Thank you.

Senator PACKWOOD. Barber, thank you very much for coming over.

Mr. CONABLE. A great pleasure to be here. Thank you, Mr. Chairman.

I do have some recommendations from the Task Force on Private Sector Initiatives here that have been handed to me by staff that include a summary of the impediments committee's recommendations. And I would ask permission to have that become part of the record.

Senator PACKWOOD. Without objection.

[The information from Mr. Conable follows:]

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The President's
Task Force on
Private Sector
Initiatives

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THE PRESIDENT'S TASK FORCE ON PRIVATE SECTOR INITIATIVES

DECEMBER 2, 1981 - DECEMBER 8, 1982

BUILDING
PARTNERSHIPS

The President's
Task Force on
Private Sector
Initiatives

December 8, 1982

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

Your Task Force on Private Sector Initiatives completes its designated one-year assignment today. Its mandate is ending successfully as you intended: to report results as opposed to resulting only in a report.

At the very outset please let us thank you for giving, time and again, the power and prestige of your office to our work. Your personal commitment to voluntarism, to encouraging neighbor helping neighbor, has been an inspiration and source of strength to the Task Force.

Throughout the year, beginning with the luncheon you hosted on December 2, 1981 and to this closing luncheon today, you personally supported over 25 White House meetings where you urged leaders from all sections of our society to join with you in finding new ways to meet the needs of America. And we are grateful for your extra effort in visits to cities all over the country where you honored especially innovative and productive private initiatives.

A compilation of your "extra-efforts" support of the Task Force is included in the appendix.

The forty-four members of the Task Force -- a cross-section of political opinion and leadership from academia, business, organized labor, government, foundations, religious, civic and not-for-profit organizations -- devote themselves to being a catalyst to encourage existing organizations, individuals and communities to take leadership roles in finding new and innovative ways to meet the needs of society. All Task Force members made important contributions to this work. I am truly

IMPEDIMENTS COMMITTEE

Chaired by: Representative Barber B. Conable, Jr.

Members: Kenneth N. Dayton
The Reverend E. V. Hill
Michael S. Joyce

MISSION STATEMENT

To identify impediments which prevent or retard the maximum use of private sector initiatives in the United States.

INTRODUCTION

The Committee recognizes that it is often impossible to draw a clear distinction between impediments and incentives. This report's focus is on the identification of areas of public policy where changes could be made that would release or encourage greater private sector initiative than already exists. Throughout the report, the concept of "impediment" will be used in a broad sense.

We contacted many of those who have been actively involved in a variety of private sector activities -- tax-exempt organizations, private foundations, corporations and banks, churches, government officials, volunteer groups, public policy analysts and scholars. This report is based largely on the impediments they brought to our attention and their suggestions for removing barriers to voluntarism, public/private partnerships, charitable endeavors and other forms of private sector initiative. In a few instances, a remedy may be straightforward and self-evident. In many, where it is not, we do not try to suggest specific policy changes. We hope, however, that others both within the Administration and without will study the identified areas and make concrete proposals for change encouraging private sector initiative.

It was brought to the attention of the Committee that many serious impediments to private sector initiative are not the result of laws or regulations but, rather, involve attitudes and motivations on the part of individuals and organizations. Many of these "attitudinal" impediments involve basic questions of the respective roles of government, nonprofit entities, and for-profit activities. Often, mutual distrust or concern over the flow of funding from one to the other prevents a full exploration of possibilities and options for new divisions of responsibilities. Little attention is given, for example, to seeking private sector alternatives for accomplishing the purposes addressed by government programs.

Dealing with these impediments based on attitude, motivation, and tradition requires fundamental shifts in economic activity and human behavior. The Committee, while acknowledging that these impediments exist, chose to focus its attention on impediments which could be resolved through specific legal or regulatory changes.

I. Definition of impediments and incentives:

A law or regulation need not totally stifle private initiative in order to impede it. An impediment can be viewed as a behavior, rule, regulation, or law which increases the costs, reduces the potential benefits, increases the risk or precludes a specific strategy of private sector initiative. Of course, it is possible for an impediment to prevent private sector initiative altogether -- as appears to be th case with the law which currently prohibits volunteers from serving in federal agencies unless an exception has been specifically legislated. Conversely, a behavior, rule, regulation, or law which permits, encourages, increases the potential benefits, or reduces the cost or risk of a private sector initiative is considered to be an incentive.

Impediments and incentives at the federal level receive most of the attention in this report; they are most readily identified and impact activity on a nationwide basis. A few specific impediments have been identified at state and local levels. There are, undoubtedly, many more which parallel federal impediments, as well as some which are unique to the laws and regulations of individual states. The Committee has communicated with the state level private-sector initiative task forces to urge them to replicate this examination of impediments and incentives.

In summary, the Committee's focus has been on the identification of substantive legal or regulatory impediments at the federal level. No attempt is made to recommend action on specific impediments.

II. Private sector initiatives face no overwhelming, major impediments:

The United States has enjoyed a lengthy, rich and diverse tradition of private initiative, voluntary association and creative cooperation among its citizens to solve mutual problems and meet common needs. This enduring tradition is evidence that no insuperable barriers or legal impediments exist which preclude a continuation of this type of activity.

Generally, where there is motivation and strong determination that a particular private sector initiative be undertaken, those involved have usually found a way to succeed.

Failures of specific initiatives do occur -- for lack of proper or sufficient motivation, insufficient resources, lack of community support or perceived need -- but the Committee believes that the climate in the United States today continues to encourage and favor private initiatives, voluntarism and nongovernmental approaches to problem solving.

Therefore, the impediments discussed in this report, while burdensome to specific projects, do not constitute insurmountable barriers that preclude private sector initiative in general.

III. Prevent creation of new impediments:

Before addressing existing impediments, the Committee wishes to stress the importance of not creating new impediments inadvertently as programs and policies are developed by government.

It is therefore suggested that: Policymakers at every level of government should review and study the possible consequences on private sector initiatives of proposed policy initiatives prior to their implementation.

Many policy changes are motivated by factors which have little or nothing to do with fostering private sector initiatives. However, while keeping these principal aims or motivations in mind, it is still possible to assess whether a particular proposal would help or hinder private sector initiative compared with one or more alternative approaches, and to consider ways that basic policy thrusts could be modified to create a climate favorable to private sector initiative.

Examples of broad public policies currently being debated which have potential impediments for private sector initiative are:

-- Flat or consumption-based income tax: while recognizing that broad changes in the tax structure must be judged by many other standards, what would be the impact on charitable contributions and could these methods of taxation be adjusted so that they would not decrease such contributions?

- New Federalism: what impact would reallocating government responsibility for meeting human needs have on nonprofit groups involved in helping the needy?
- Repair of infrastructure: what would be the impact of decisions relating to the repair, relocation or closing of roads, bridges, schools, public housing on the sense of community and neighborhood identification and solidarity which propel many private sector initiatives?
- Minimum wage: what would be the impact on state or federal decisions to increase minimum wages on the employment of youth, trainees and others who private sector initiatives often try to help?

The Committee is NOT recommending that a formal study or exhaustive impact analysis be launched every time a new policy is considered. However, it suggests that just as policymakers attempt to assess the impact of proposed changes on the economy, the environment and on families, some thought be given to what the potential impacts on private sector initiatives might be and how any possibly negative impacts could be avoided.

> One example of this occurred during the consideration of The Economic Recovery Tax Act of 1981. It was realized that the full operation of the new rules for depreciation of capital assets would mean that some corporations would show reduced taxable income on their ledger books. If the limit on deductibility of corporate charitable contributions had been left at five percent, this would have meant that at least a few corporations with aggressive philanthropic programs would have to have reduced their contributions in order to stay within the allowable limit. Therefore, the limit was doubled to 10 percent -- not because anyone expected corporate contributions to double, but merely to prevent other changes in the law from having an unintended, negative impact on existing patterns of charitable giving.
>
> It should be noted that another of the major changes in this same legislation, reduction in individual income tax marginal rates, increased the cost of individuals' charitable contributions and, therefore, has probably reduced their rates of giving. In this case, although this effect was perceived while the bill was under consideration, the main thrust of the tax-cutting legislation was felt to be of primary importance, despite its probable impact on contributions.

IV. The Crucial Role of a Strong Economy:

The Committee wishes to emphasize that a strong economy constitutes the greatest incentive to private sector initiative. None of the specific impediments identified below begins to match the negative effects of a weak economic climate on stifling private sector initiative, be it charitable contributions, the development of public/private partnerships, the creation of the jobs and income that reduce the need for philanthropy or the development of creative alternatives for meeting needs in the private sector.

VI. Specific Impediments and Incentives:

A great many individuals and organizations identified for the Committee specific impediments and needed incentives which they have encountered in trying to foster private sector initiatives. These impediments and incentives are listed below as they affect several areas of private sector initiative: contributions by individuals, volunteering, tax-exempt organizations, private foundations, and for-profit corporations. This abbreviated version of the Committee's report contains only an inventory of major items brought to its attention. A longer version of the report and an appendix contain further details and are available as separate documents. However, in no instance does the Committee make action recommendations concerning specific impediments or incentives.

No member of the Impediments Committee necessarily agrees that every item discussed below should be part of an agenda for future action. The listing is based on responses from people actively involved in fostering private sector initiatives and, as such, reflects their experience and opinions as to barriers they have encountered in pursuing specific projects and programs.

The Committee stresses that it is not necessarily advocating a specific legislative or regulatory response to these impediments and incentives. Instead, it urges that these areas be reexamined to determine whether the original rationale behind the existence of these impediments outweighs the problems they create for private sector initiatives.

A. Contribution of funds by individuals

1. Make the above-the-line income tax deduction permanent for charitable contributions. Government and interested groups should continue to make taxpayers aware of this new deduction for people who do not itemize their other deductions.

2. State income taxes should lower the cost of giving by recognizing charitable contributions by taxpayers who

do not itemize deductions. Such a change was recently enacted in California.

3. Increase the limitations on the percent of income which can be claimed as a charitable deduction.

4. Consider policies which would permit individuals to make charitable contributions of Series E savings bonds, IRA's and Keough accounts, such as removal of the penalty for liquidating IRA funds before age 59-1/2.

5. Bargain sale provisions. Under pre-1970 tax law, a taxpayer might have an improved case position as a result of contributing appreciated mortgaged property to a charitable organization. Under current law, it is no longer advantageous to do so. This impediment might be alleviated by revising the law to tax only 25 percent of the cost of such a donation.

6. Contribution of artistic works. Tax treatment of gifts made by artists of their own works discourages such gifts to museums, galleries and educational institutions in the United States where they would be accessible to the public.

7. Charitable trusts. Several tax impediments to the creation of charitable trusts have been identified. These include the uncertainty as to the right to reform defective trusts under certain circumstances, the 20 percent limitation on the percentage of adjusted gross income which can be deducted for the creation of a trust, and the lack of a carryforward provision.

B. Volunteers

1. Federal law currently prohibits federal agencies from permitting volunteers to contribute their services, unless a statute has been enacted specifically exempting the agency from this provision. Those agencies which have been permitted to use volunteers, the SBA, Forest Service, and Savings Bond program, for example, have found that volunteers contribute importantly to accomplishing agency functions. Consideration should be given to lifting this blanket government-wide prohibition on volunteer services.

2. Members of civic and charitable associations are not permitted to place unstamped mail in residential mail boxes. Permitting such a practice might help these organizations mitigate the impact of high postage rates.

3. Accounting methods used by the Federal Government in calculation of amounts to be reimbursed under grants or contracts have the effect of penalizing organizations for the heavy use of volunteers.

C. Tax-exempt organizations

1. Nonprofit organizations

Qualifying for tax-exempt status:

a. An organization involved in channeling funds to low income, deteriorating communities has found that it might be in violation of the requirements for tax-exempt status because it assisted for-profit businesses which provided a mainstay for revitalization efforts, and because it assisted housing which included an economic mix of residents. Rulings in this area appear to be contradictory, and it is believed that clarification of permissible activities might spur innovative revitalization efforts.

b. Nonprofit organizations caring for infants and school age children during out-of-school hours have experienced extraordinary difficulty in qualifying for tax-exempt status because they could not show they were organized and operated exclusively for educational purposes, as required. It has been suggested that the provision of these types of services would be facilitated if the definition of tax-exempt organizations were expanded to include work-related dependent care.

c. The rules governing whether an organization qualifies as a public charity require that at least one-third of its annual contributions come from broadly based public contributions, fees, admissions and so forth. This requirement jeopardizes the organization's status if it accepts large contributions, the income from which would reduce its public contributions to less than one-third. This in turn discourages efficient means of husbanding and distributing funds for charitable purposes.

Providing services:

a. State and local zoning laws, health, fire and safety regulations pertaining to neighborhood- and home-based daycare for children, handicapped and elderly individuals are often based on requirements intended for residential institutions and large schools. The expense of complying with these requirements prevents some care facilities from operating even though the safety and well-being of those in care is well protected and leads others to operate outside the regulatory structure.

b. Grants by charitable organizations to needy individuals who receive Supplemental Security Income (SSI) payments from the federal government are counted against the benefits received by those individuals. An unintended consequence of this rule is that charitable organizations quickly learn not to extend assistance to SSI recipients, even though the needs of these people are often in excess of the support provided under the government program.

Financing:

a. Late payments of federal funds (by federal agencies or by state agencies on a "pass-through" or block-grant basis) sometimes force nonprofit grantee agencies to borrow, at high rates of interest, to cover cash-flow requirements until the federal payment arrives. However, these interest costs are not reimbursed by the government and must be absorbed by the grantee agency. This reduces the funds available for their charitable purposes and makes it difficult for them to plan for and allocate their funds on a reasonable basis.

b. Postage rate increases for nonprofit third-class mail has reduced the ability of many charitable organizations to generate income and carry out their functions.

c. State and local regulations regarding charitable solicitation within state boundaries were enacted to safeguard against fraud and deception. Unfortunately, these well-intended laws have made it difficult for reputable national organizations to comply with the patchwork of different requirements in each state.

d. Charitable tax-exempt organizations are taxed on income from debt-financed properties (mortgaged real estate) held in their portfolios. This deters them from purchasing real estate as an investment or from holding such property received as a gift, even though the return on such property might be more attractive than that of other investments.

2. Foundations

   a. The 2 percent excise tax on private foundations generates revenue far in excess of amounts spent by the IRS to monitor tax-exempt organizations and diverts funds away from charitable purposes.

   b. Community foundations are required to obtain at least 10 percent of their support from public contributions in order to maintain public charity status. This, in effect, penalizes community foundations for their earlier success in attracting contributions. As the value of the foundation's endowment and that of endowment income increases, it becomes more and more difficult to attract sufficient annual contributions to meet the 10 percent test.

   c. It has been alleged that a major factor in reducing the "birthrate" of new foundations, and discouraging the flow of additional funds into the foundation field is the prohibition under current law of excess business holdings. In summary, these rules provide that a private foundation cannot hold more than 20 percent of a corporation's voting stock, less the percentage owned by all disqualified persons. Should a foundation acquire excess business holdings as a result of the receipt of a gift, bequest or corporate merger, the foundation must dispose of such holdings within five years or incur severe penalties. This places such a foundation at a substantial disadvantage in negotiating with prospective purchasers who may prolong negotiations in the hope of obtaining a lower price as the deadline pressures on the foundation increase. Faced with the prospect of a forced sale, many potential donors simply decide against making a gift of closely held stock to a foundation.

   d. Private foundations are not allowed to rely on IRS rulings as to a grantee's public charity status. This forces the foundations to expend their resources in order to make these determinations on their own, thus resulting in less funds available for charitable purposes.

   e. Donors to private foundations may not deduct the fair market value of contributions of appreciated property without adjustment for capital gains tax unless the foundation distributes 100 percent of all their contributions to qualified charities within 2-1/2 months after the end of the taxable year of the donations. This means a foundation must be certain of selling all the properties it receives in order to fund its distributions within the same year. These requirements are too rigid in the case of real properties subject to market uncertainties to permit a substantial contributor to fully fund its foundation with appreciated properties and, therefore, may reduce the amount contributed.

f. The penalties and sanctions on both public charities and private foundations for relatively minor infractions need to be reviewed. In the case of private foundations, a multi-level set of penalty taxes have sometimes created problems for smaller foundations which lack the resources to retain adequate legal counsel. Public charities' violations are sanctioned by the loss of their tax-exempt status altogether; a punishment which may be too harsh to match minor violations.

g. Presently, only one of four eligible candidates for corporate-related foundation scholarship programs may receive an award. This "25 percent test" was devised by Congress to prevent corporations from funneling compensation to their employees through educational scholarships to their children. These limits restrict the freedom of company foundations to engage in a charitable activity of broad benefit to the community.

h. The law and regulations pertaining to private foundations impose severe restrictions on the relationships that may exist between a foundation and its "disqualified persons." Violations of these restrictions trigger substantial penalty taxes. Some foundations have literally hundreds of disqualified persons and must spend considerable administrative funds to track their investments nd corporate and business involvements in order to avoid transactions prohibited between the foundation and disqualified persons. This rule can impose a substantial administrative burden on private foundations, the magnitude of which increases geometrically with each passing generation.

D. The For-Profit Sector

1. Private pension funds: The prudence standard, the "solely in interest" test, and the "exclusive purpose" rule under ERISA are not in and of themselves deter-

rents to socially sensitive pension fund investment. These rules appear to allow the fiduciary flexibility to consider such investments within the pension plan philosophy that the participants' assets are set aside for investment for their future benefit, which itself satisfies a social purpose. To advocate liberalization of such provisions would undermine the basic tenets of pension plan regulation.

2. The enterprise zone concept should be considered as one means of responding to the plight of distressed urban and rural areas. Phased implementation of the concept on an experimental and limited basis would permit development of the information and experience needed for full-fledged implementation.

Senator MOYNIHAN. Mr. Chairman, this is very likely the last occasion in which Barber is going to appear before this committee as a member of the Congress.

Mr. CONABLE. I wouldn't be sure of that, Senator Moynihan. I'm having a little trouble phasing down here. [Laughter.]

There is a lot of activity going on right now.

Senator MOYNIHAN. If it is, let it be recorded what an honor it is that we are here on an occasion such as this.

Mr. CONABLE. Well, I'm greatly honored to be heard by your committee, and I wish you well in your work.

Thank you.

Senator PACKWOOD. Thank you, Barber. Now we will go back to the panel: Mr. Teitell; Ms. Winslow, and Mr. Quinn.

Thank you very much for stepping aside. You are very generous. Ms. Winslow, I believe you are next.

STATEMENT OF ANN WINSLOW, BOARD MEMBER, THE ASSOCIATION OF JUNIOR LEAGUES, INC., NEW YORK, NY

Ms. WINSLOW. Thank you.

I am from Colorado Springs, CO, and a board member of the Association of Junior Leagues. I'm also a member of the board of Goodwill Industries in my community, and a former board member of the Rocky Mountain chapter of the Arthritis Foundation.

I appreciate the opportunity to appear before you today to urge your support of Senate bill 337, the permanent charitable contributions legislation. With your permission, I will submit my written report for your records and now summarize why the association strongly endorses this legislation.

The Association of Junior Leagues is a nonprofit organization of 249 leagues in the United States, having approximately 150,000 members. The association believes that the enactment of the permanent charitable contributions legislation is essential to preserving a strong, voluntary sector with participation by all Americans. This sector provides vital community services while also allowing individual initiative to solve community problems. The vitality of community services is ensured by many nonprofit organizations in the United States in the independent sector. The association's service is exemplified through its member leagues who sponsored in 1982-83 more than 2,100 projects and returned more than $9.5 million through those projects to their communities.

In Colorado, there are three leagues which have supported a wide variety of projects. In my own community, the league has had projects in areas of adolescent pregnancy and family violence.

In Denver, the largest league in the State expects to return $245,000 to the community this year, with a manpower of 375 league volunteers. In Pueblo, which serves an economically distressed community, the league has returned $50,000 to the community in the last three years.

How do junior leagues raise money for their community projects? They do so by operating thrift shops, by writing and selling cookbooks, and by a range of short-term activities that range from rummage sales to sports and cultural events. Many of these activities depend upon the sale of tax deductible tickets and the donation of tax deductible items that all Americans, regardless of their income, can participate in.

Because of the Association of Junior Leagues' strong belief that volunteering should not be an activity solely of upper income individuals, the association advocated vigorously for an increase in the voluntary mileage deduction bill, and following the lead of this committee, Congress this year did increase that deduction from $0.09 to $0.12.

However, those taxpayers who do not itemize deductions will not be allowed to deduct mileage expenses unless charitable contribution legislation continues. And without a broad base of community support generated by extending the deduction to all income groups, nonprofits may lose participation from lower and middle income people. This undermines a democratic giving base.

A recent Gallup Poll shows that more than one-half of all American teenagers and adults engage in some kind of volunterism. Many of these are in activities in which junior leagues participate. We encourage you to make permanent the charitable contribution legislation so that these Americans can continue their volunteering.

Thank you.

Senator Packwood. Thank you.

[The prepared written statement of Ms. Winslow follows:]

THE ASSOCIATION OF JUNIOR LEAGUES, INC.

TESTIMONY
OF
ANN B. WINSLOW
BOARD MEMBER
OF
THE ASSOCIATION OF JUNIOR LEAGUES, INC.
SUBMITTED TO THE
SUBCOMMITTEE ON TAXATION AND
DEBT MANAGEMENT
OF
THE SENATE FINANCE COMMITTEE
ON
SEPTEMBER 26, 1984

825 THIRD AVENUE, NEW YORK, N.Y. 10022 • (212) 355-4380

I am Ann B. Winslow of Colorado Springs, Colorado, a Board member of the Association of Junior Leagues, past president of the Junior League of Colorado Springs and a Board member of Goodwill Industries of Colorado Springs. I also served for six years on the Board of the Rocky Mountain Chapter of the Arthritis Foundation. I appreciate the opportunity to appear before you today to urge your support of S.337, the Permanent Charitable Contributions Legislation. The Association of Junior Leagues strongly endorses this proposed legislation; we believe that its enactment is essential to preserving a strong voluntary sector which can continue to provide vital community services and encourage individual initiative to solve community problems.

We believe that a continuation of the charitable contributions law (CCL) permitting all taxpayers to take a deduction for their charitable gifts is vitally important. The CCL provides an incentive for all Americans to be as generous as possible in supporting a wide variety of indispensable public charities throughout the United States. As a country, we are just beginning to see the results of broadened charitable contributions incentives. It would be unfortunate if this opportunity were stifled when it is just beginning to show results. If this country is serious about promoting voluntarism as a supplement to government sponsored programs we must give the CCL a chance to succeed by making permanent the charitable contributions legislation which is due to expire at the end of 1986. Ironically, 1986 is the first year in which all taxpayers will be permitted to take a deduction for all of their charitable contributions; it makes no sense to allow this incentive to expire in 1987. To do so could lead to a serious erosion of the voluntary sector.

CCL's Relationship to Volunteer Mileage Deduction

We also wish to call attention to the CCL's inter-relationship with the Volunteer Mileage Deduction. Because of our strong belief that volunteering should not become an activity solely of upper-income individuals, the Association has advocated vigorously for an increase in the Volunteer Mileage Deduction. This year Congress, following the leadership of this Committee, increased the mileage deduction for volunteers from 9 to 12 cents per mile. However, those taxpayers who do not itimize deductions will not be allowed to deduct mileage expenses if the charitable contributions legislation is ended.

Many volunteers who support essential community programs take the standard deduction. If the CCL is not made permanent, it will be more difficult for those volunteers who do not itemize -- the great majority of whom have lower and middle incomes -- to continue volunteering. We urge you not to eliminate the Volunteer Mileage Deduction for those individuals by allowing the CCL to die.

Junior League Contributions to their Communities

The Association of Junior Leagues (AJL) is a non-profit organization with 249 member Leagues and approximately 150,000 individual members in the

United States. Junior Leagues promote the solution of community problems through voluntary citizen involvement and train their members to be effective voluntary participants in their communities.

Junior Leagues raise money for community projects and administrative expenses in several ways: operating thrift shops, writing and selling League cookbooks, and conducting a range of short-term, money raising activities such as art shows and auctions, holiday markets, rummage sales, sports and cultural events. Many of these activities are dependent on the sale of tax deductible tickets and the donation of tax deductible items.

In 1982-83 there were 121 Thrift Shops run by the Junior Leagues. One hundred and nine Leagues produced cookbooks, five of which had profits in excess of $86,000 each. The amount of money raised in 1982-83 was $15,247,851. The sources of revenues were:

1982-83 REVENUES	
Cookbooks	$ 2,000,482
Money Raisers	8,258,119
Thrift Shops	4,989,250
	$ 15,247,851

During 1982-83, Junior Leagues sponsored more than 2,100 projects in their communities and returned to the community more than $9,400,000 netted from benefits.

Data from our 1983-84 survey of Junior League activities have not been tabulated, but initial reports indicate a continuation of the trend over the previous years - requests for funding and volunteer support increase each year, and Junior Leagues raise and contribute more funds to community projects each year. The money raised by these League fundraisers is used to support projects in the community such as services to children and their families, adolescents, the aged and populations experiencing special problems such as drug abusers, alcoholics and battered women, as well as programs concerned with the arts, urban conservation and the protection of the environment. The projects initiated by the Leagues, often in collaboration with other community groups, illustrate the types of innovative programming and individual initiatives stimulated by the voluntary sector.

Junior League Projects

I would like to highlight a few of these projects to give you an idea of the scope and diversity of League activities. In my home state of Colorado, the three Junior Leagues have supported a variety of community projects. In 1984 alone, the Junior League of Denver will return to the community more than $245,000 in support of projects and other activities. In addition to financial support, 375 League volunteers are participating in community projects this year. The following are examples of some of the projects. Since February, 1982, the Junior League of Denver has provided 14 volunteers and $52,000 to improve guardian *ad litem* services to children in dependency and neglect cases before the Juvenile Court. As part of this effort, alternative methodologies are explored to determine the most effective and cost efficient approach to providing these services. The model in which the League is primarily involved demonstrates the effectiveness of teamwork using trained volunteers. The volunteers perform background investigations, evaluation and case preparations, freeing attorneys to focus on supervision and case presentation in court.

Denver League members also support two projects which provide services to hospitalized children and their families. In one project, 32 League volunteers have assisted in providing adolescent and pediatric patients with recreational services aimed at helping to speed the child's recovery. In the second project, the League has donated $10,000 and 30 volunteers in support of the Ronald McDonald House - a low cost temporary home for families and children under 16 who are being treated for life threatening diseases.

Members of the Denver League also have supported a parent support project since 1980, contributing six volunteers and $6,000 to help provide support and parenting skills to at-risk mothers. This project, run in conjunction with the Inter-Faith Task Force, focuses on providing positive social and educational experiences in a relaxed friendly and supportive setting.

Over the past three years, the Junior League of Pueblo has contributed almost $50,000 to community projects - supporting day care programs (including infant and toddler care) and projects dealing with adolescent pregnancy, families in need of services, as well as projects serving the entire community such as a children's museum. In addition to financial support for community projects, the League also has provided volunteer services --- over the same three year period, 138 League volunteers have helped make these projects successful. To give one example, the Pueblo League helped to bring the national project Reading is Fundamental (RIF) to its community. RIF encourages children to read and learn that reading can be fun. Books are purchased and distributed free of charge to participating children. In Pueblo the project focused on second grade public school students. The League contributed $1,000 and 16 volunteers to help the project get started in Pueblo.

The Junior League of Colorado Springs, which raised more than $190,000 over the last three years, has helped its community through a variety of projects, including supporting a Community Leadership Institute to help develop community leaders; a teenage pregnancy project; a women and alcohol media awareness campaign; and programs for a shelter for victims of domestic violence. Since 1981, the League has donated more than $77,000 to community projects; more than 240 League volunteers have supported these programs.

The domestic violence program supported by the Junior League of Colorado Springs is the El Pomar Safehouse. The League has supported the project since May, 1982, donating over $29,000 and providing 13 volunteers. The project provides follow-up services for women and children after they leave the safehouse. The project addresses educational and emotional problems inherent in domestic violence situations and provides special counseling for male abusers.

The Colorado Springs Junior League's teenage pregnancy efforts consist of an Adolescent Pregnancy Task Force designed to educate League members about the scope and ramifications of the problem. This led to a conference and media campaign to focus more attention on this problem.

Projects, such as those supported by the Junior Leagues in Colorado, are particularly important at a time when government support for social services is being cut back. Junior Leagues in other states have similar programs. For instance, in Oklahoma, the Junior League of Oklahoma City, supports a child care information and referral system, a teenage pregnancy project, a foster care/adoption effort, tutoring and support services to the families of infants.

The Oklahoma City League has supported the information and referral system since June, 1983 by providing 10 volunteers and $11,500. The I & R system serves the Oklahoma City metropolitan area, providing assistance to parents in locating and choosing care. The system also promotes improvement in the quality of care and helps providers make such improvements. Additionally, the system includes a clearinghouse of information for child care advocates and encourages employer involvement in child care.

The Oklahoma City teenage pregnancy effort focused on preventing birth defects. The objective was to educate junior and senior high students about the high correlation between teenage pregnancy and children born with birth defects, and to inform teenagers about the effects of drugs, alcohol, cigarettes and improper nutrition on the unborn child.

The Oklahoma City League also provided substantial support for Infant Center, an information center which provides education, support, and referral services for families of infants. Since September 1983, the League has provided $150,000 and 30 volunteers to the Center.

The Tulsa Junior League has supported the Domestic Violence Intervention Services, Inc., a joint effort with the Community Services Council. One objective of this project is to use volunteers to help improve the community's understanding of the problem of domestic violence and to improve treatment for victims of family violence. The League's involvement with the project is growing. In 1982-83, eighteen Junior League volunteers supported this program; in 1984, 39 League members were involved in the program and contributed more than 3,600 hours of volunteer service. At present, the League is helping to insure the future of this project by assisting the program to identify other community resources and to make specific requests for community support.

The Tulsa League also supported a CPR (Cardiopulmonory Resuscitation) project to heighten awareness about the importance of CPR and to provide training. The League has supported this project for more than six years, contributing more than $22,000. Last year, the League provided eleven volunteers trained to be CPR instructors and trainers to support the project.

In Oregon, Junior Leagues have supported a variety of community projects. The Portland League supported sixteen projects in 1982-83. These projects dealt with issues such as child abuse and neglect, health education, hospice care, child health and the performing arts. The Eugene League supported ten community programs in 1982-83, dealing with issues such as hospital services for children, teenage pregnancy, consumer education, and domestic violence. For example Portland's child health screening and testing program provides for a systematic early identification of children at risk of hearing loss. The League has supported this project since 1981, donating $17,730. In 1982-83, twenty-one League volunteers supported the project.

The six Junior Leagues in Louisiana also have developed and supported many community projects. In New Orleans, League members have supported crime prevention, rape prevention, and parenting projects. The Shreveport League has supported efforts to deal with community affairs, parenting, substance abuse, unemployment, and numerous other needs. In 1982-83, Lake Charles League members supported 17 projects helping to deal with problems such as child abuse and neglect, family violence, and the need for emergency shelter. In Monroe, the League supported the public schools and a project dealing with substance abuse. In Lafayette, the League supported projects dealing with arts and cultural affairs and a variety of social service initiatives. In Baton Rouge Junior League members supported eleven projects dealing with issues as diverse as historic preservation, parenting, substance abuse and family violence. In Alexandria, Leagues were involved in eight projects designed to deal with community problems and to support community services.

To give a brief description of a few of these projects: the Junior League of New Orleans has been supporting the Parenting Center since June, 1978. The center helps parents develop confidence and competence in their roles as parents. The League has contributed $160,000 to this project, and in 1982-83, 43 volunteers helped run the project. The Parenting Center has continued to expand and grow since its inception. As of 1982, more than 350 families belonged to the center. Among the servicesfor members of the Center are infancy and toddler classes, drop-in times, informal discussion groups, lunch groups, evening fathers' groups, afternoon activity times, resource library, child management classes, short-term counseling, discussion groups for parents of premature infants, and child care for parents participating in Center activities. A satellite program is located at Metairie Park Country Day School. Some of the many community programs supported by the Center include: The Warm Line (895-KIDS), evening speakers, grandparenting, seminars, babysitting, training courses, school support groups for children from separated and divorced homes, and an information and referral service.

In Shreveport, the Junior League has been involved with an employment/training project, Contac, since 1977. This project operates in cooperation with the Caddo Parrish Schools and Aetna Life and Casualty. The project handles high school students to explore career interests through internships. Students receive high school credit for the work experience and also have the opportunity to develop good work habits. Junior League volunteers recruit students interested in internships, find sponsoring businesses for students and monitor the internships. Four Junior League volunteers served the project in 1982-83; the League has donated $4,000 to Contac.

In Lake Charles, Louisiana, the Junior League has been supporting an emergency shelter for children since 1981. The League has contributed $65,000 to this project; League volunteers help provide services at the shelter. This emergency shelter serves children in a five parish area providing temporary shelter for as many as twenty children, from three to seventeen years of age. League volunteers in 1983 supervised creative learning experiences and recreational activities

In Delaware, the Junior League of Wilmington has dealt with problems such as teenage pregnancy and child abuse and neglect and has supported services such as hospice and guardian ad litem. Volunteers staffed the child abuse and neglect after hours hotline at the State Division of Child Protection Services. Thirteen volunteers supported the hotline during the hours from 4:30 to 10:30 p.m. on week days. Seven League volunteers helped operate ARC (A Resource Center), a youth counseling and clinical service dealing with human sexuality. League volunteers have supported a hospice effort since June 1982; contributing $2,100 and eleven volunteers. Junior League volunteers publish a newsletter, "Delaware Hospice News" and are establishing a Hospice resource library.

We believe the type of activities in which Junior Leagues participate illustrate the diversity and vitality of volunteer sector initiatives. We urge you to encourage those initiatives by making the CCL permanent. It is undeniable that these initiatives are encouraged by government support for charitable giving. We believe that it is especially important to encourage the development of a strong voluntary sector at this time of federal cut-backs in aid to social services and cultural institutions. Research indicates that for every $1 lost to the government because of the CCL, $1.24 is returned to the community. Surely this is a good investment. Please continue that investment by supporting S.337.

Thank you for the opportunity to appear before you today.

Ann Winslow
Member, Public Policy Committee
Association of Junior Leagues

STATEMENT OF LEONARD QUINN, PRESIDENT OF CATHOLIC SOCIAL SERVICES IN WILMINGTON, DE, ON BEHALF OF THE NATIONAL CONFERENCE OF CATHOLIC CHARITIES

Senator PACKWOOD. Mr. Quinn.

Mr. QUINN. Thank you, Mr. Chairman. I'm Leonard Quinn, vice president of Quinn Data Products of Wilmington, DE, and president of the Catholic Social Services advisory board of the diocese of Wilmington. With me is Matt Ahmann, director for government relations, National Conference of Catholic Charities.

I'm happy to testify for the National Conference, representing Catholic charities and institutions throughout the United States in support of S. 337, which would make the deduction for charitable contributions by non-itemizers permanent.

At the outset, Mr. Chairman, we would like to express our sincere appreciation to you for the depth of your understanding of the importance of the voluntary sector and for your leadership in promoting this important tax amendment, S. 337, which would increase the income of hard-pressed nonprofit groups. It would also extend the equity in the Tax Code to those taxpayers who do not otherwise itemize deductions.

These taxpayers are almost exclusively modest income earners who experienced little, if any, gains from the 1981 tax cuts. Indeed, the IRS reports that 91 percent of those using the deduction have incomes below $30,000 annually.

Our Wilmington agency provides a wide range of social services to all age groups. In 1983, we provided family and child oriented services to 5,899 families; 13,573 individuals, including counseling, adoptions, foster care, and emergency assistance.

Senator PACKWOOD. Mr. Quinn, I wonder if I might suggest that you not read your statement verbatim. It was in our packet last night, and we have had a chance to read it. It will all be in the record. If you would emphasize the point you want to make most strongly.

Mr. QUINN. All right.

The key things that we wanted to emphasize as representative of the National Conference of Catholic Charities is that we represent 600 agencies and institutions, all providing services from the range of housing for the elderly and low income—what we really want to emphasize is that the private generosity, which makes us and other nonprofit organizations a vital resource for our Nation, keeps our association free to be quickly and sensitively responsive to ever-changing human needs.

Since 1980, the growth in our own diocese of the annual giving has increased 30 percent, and our own orphans collection increased 29 percent. Our contributions flowing through the diocese increased 19 percent. That shows that the voluntary deduction is working even though it has only been in a phased-in period at this point.

The other side is that the conference has studies that show volunteer help, hours, and talents donated, are up over 40 percent of what they were in 1980. We are in a point where the Government must cut back services. The Government has huge deficits, and they must cut back services some way.

We must, on the other hand, encourage people to donate their time and their money to help us do our job. If we want to have us helping our brothers, we need all the incentives we can get. And we would appreciate your support and recommendation of this amendment.

Thank you.

Senator PACKWOOD. Thank you very much.

[The prepared written statement of Mr. Quinn follows:]

Testimony
# of the
National Conference of Catholic Charities
on
Charitable Contributions
before the
Subcommittee on Taxation and Debt Management
Senate Finance Committee

September 26, 1984

delivered by: Leonard A. Quinn, President
Catholic Social Services
Wilmington, Delaware

I am Leonard A. Quinn, voluntary President of Catholic Social Services, Wilmington, Delaware. I am also Vice President of Quinn Data Products, Inc. I am happy to testify for the National Conference of Catholic Charities -- representing Catholic Charities agencies and institutions throughout the United States — in support of S. 337 which would make the deduction for charitable contributions by non-itemizers permanent.

At the outset, Mr. Chairman, we would like to express sincere appreciation to you for the depth of your understanding of the importance of the voluntary sector, and for your leadership in promoting this important tax amendment, S. 337, which would increase the income of hard-pressed non-profit groups. It would also extend equity in the tax code to those taxpayers who do not otherwise itemize deductions. These taxpayers are almost exclusively modest income earners who experienced little if any gain from the 1981 tax cuts. Indeed, the IRS reports that 91% of those using the deduction have incomes below $30,000 annually.

Our Wilmington agency provides a wide range of social services to all age groups. In 1983 we provided family and child oriented services to 5,899 families and 13,573 individuals, including counseling, adoption, foster care, and emergency assistance. We provided counseling as well as other services to young people, elderly persons, the physically handicapped, mentally retarded, mentally ill, unmarried parents and divorced and separated persons for a total of more than 2,800 persons. We sponsored 35 refugees from Southeast Asia who settled in our area. We provided emergency assistance consisting of financial aid for rent and utilities and other expenses, clothing and furnishings and medical prescriptions to another 9,726 persons. Over 9,600 families were served under the Low Income Energy Assistance Program.

The National Conference of Catholic Charities is a non-profit human service network providing services throughout the United States. It represents some 600 agencies and institutions providing a range of programs from emergency assistance and counseling for troubled youth and families to sponsorship of housing for the elderly and low income families, and providing assistance in community organization and other forms of advocacy.

In a number of programs Catholic Charities agencies work in partnership with government in meeting human needs, and we provide privately contributed dollars to match government funds. In other programs we rely exclusively on charitable contributions, and it is this generosity which makes us and other non-profit organizations so vital a resource for our nation. It also keeps our associations free to be quickly and sensitively responsive to ever-changing human needs.

In January, 1980 the National Conference of Catholic Charities testified on this legislation before your subcommittee, and I will repeat today some of the arguments in its favor which are as valid now as then.

Among the reasons the 1980 arguments are still valid is the fact that the amendment, enacted in 1981, provided only for phased-in implementation. We compromised our need with the Finance Committee and with the Administration in order to ease the burden on tight federal revenues. Because of that phase-in, we do not at this point have sufficient experience about the amendment's impact to demonstrate to all skeptics its value or its efficiency in terms of increased non-profit revenue versus revenue loss to the Treasury. Note that I said "demonstrate to all skeptics." The research cited in 1981 still stands unchallenged. The contributor loss over the period of five increases in the standard deductions in the 1970s, which we demonstrated in our testimony, still stands. In addition, of course, other non-tax legislative changes enacted in 1981 have had a severe impact on the ability of non-profit agencies to deliver human services particularly. If anything, the argument for providing relief for the non-profit sector is more compelling today than in 1981. In both the tax area and the appropriations area, government has hurt our ability to meet our important share of the public purpose.

There are signs that even at a modest level of implementation, this amendment is doing what it is designed to do. Others will testify more fully on this, but let me cite IRS data that in 1983, 40% of the non-itemizers took advantage of the deduction. This figure was up by 11% over 1982. For those who alleged that the deduction would encourage cheating, it is interesting to note that 4.2 million, or 18%, of those who claimed a deduction took less than the maximum permitted. That should be evidence that non-itemizers are as honest as itemizers.

The amendment providing non-itemizers the charitable deduction is new, and contributors may not even yet take the full deduction for their contributions.

Because of these factors, it is difficult to measure the impact of the amendment. Nevertheless, as others are testifying today, there are some definite indications of the positive effect of the amendment for non-profit organizations which suggest the merit of enacting it on a permanent basis.

Three categories of voluntary giving to my own agency, for example, show significant gains from 1980 through 1983. Voluntary contributions through our Catholic diocese flowing to our agency are up 19%, and other voluntary contributions to our programs are up 11% in that period. It is true that giving might have increased due to an increased public perception of homelessness. Some would argue that the decrease in the inflation rate has increased discretionary income, but this is not much of a factor in either the religious or human service fields where research indicates most giving is by people with modest means. We believe, however, that the availability of the new deduction has both brought us new donors and increased the contributions of former donors.

If we look at Catholic Charities nationally, data from the annual surveys conducted by our Conference indicates quite clearly that voluntary contributions to our agencies coming from sources other than our regular annual appeals, or our diocesan drives or United Ways, are up 60% from 1980 through 1983. These important contributions are part of the collective budget of Catholic Charities agencies; the $40 million generated do help us provide more services to hurting people.

In our 1980 testimony, we cited the fact that people who contribute hard-earned money to charity also often contribute their own time and talents. We can report that in both 1982 and 1983 the number of volunteers active in Catholic Charities programs increased in the neighborhood of 40% over the previous year.

This citizens service is crucial to our programs of service and testified to the personal meaning accompanying financial gifts.

I would like to close by citing what we believe is the prime justification for a tax provision offering non-itemizers the opportunity to deduct their charitable contributions. The provision would acknowledge in an important and practical way the crucial role of the independent non-profit sector, the voluntary association, in maintaining a strong, free, resilient and caring society. It would also be a recognition that in any tax simplification or reform, there is an extremely important public purpose to be served in acknowledging and encouraging charitable contributions. It is through the charitable contribution that the average American citizen votes with his or her pocketbook and makes his or her own direct appropriation to meet public needs. For it is public needs which non-profits serve. And our history is replete with demonstrations of how charitable organizations can be more flexible and more immediately responsive to public needs than can government.

Mr. Chairman, we thank you for your leadership, and we urge the Finance Committee to report this amendment early in the 99th Congress.

SUMMARY

TESTIMONY OF
NATIONAL CONFERENCE OF CATHOLIC CHARITIES
ON
CHARITABLE CONTRIBUTIONS LEGISLATION

BEFORE SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT
OF SENATE FINANCE COMMITTEE

SEPTEMBER 26, 1984

The National Conference of Catholic Charities, representing some 600 human service agencies and institutions throughout the United States urges the permanent enactment of the amendment extending the deduction for charitable contributions to non-itemizers.

Among the important reasons for enactment:

Non-profit groups are hard pressed for funds for their service programs partly as a result of 1981 federal budget cuts and tax cuts. At the same time, caseloads have increased.

The deduction helps increase equity in the Tax Code as it benefits taxpayers who do not otherwise itemize and get the regular charitable deduction. It would benefit laregly modest and low-income taxpayers who did not benefit much, if at all, from the 1981 tax changes.

There is evidence that both income and volunteers are up in human service agencies from 1980 to 1983 though there is not yet much sophisticated research on this or the causes.

Since the 1981 amendment is not yet fully phased-in, there has been no clear-cut opportunity to provide absolutely conclusive data on its efficiency. Only a period of years of full enactment can do this. Those who could take advantage of the amendment do not have tax advisors and so learn of it gradually.

The research presented this Subcommittee in testimony in 1981 still stands and indicates that charities would gain signficantly more than the Treasury would lose.

IRS data released to date indicates that an increasing number of taxpayers are utilizing the deduction and that a significant proportion of them are claiming less than the full deduction permitted, suggesting a high level of honesty.

Senator PACKWOOD. I wonder if I might ask Mr. Ahmann a question.

I noted in Mr. Clotfelter's testimony that he states as much as three-quarters of the funds generated by the charitable contribution for nonitemizers will go to religious organizations. Would you care to comment on that?

Mr. AHMANN. Senator Packwood, Mr. Conable made a similar observation, and I think it's a recognition of a broad contribution which religious groups make in our society. When people think religion in that context, they often think of Sunday worship and the like. But I know that in my own—I don't know what Mr. Teitell would say for the communions belonging to the National Council of Churches—but I know that in my own denomination—in Senator Moynihan's diocese of Albany, for example—upward of 85 percent of the voluntary contributions go to education, go to retirement programs, go to community meetings, go to the social services of Catholic charities and of hospitals, go to disaster relief, go to overseas development aid and so on.

I suppose in denominations where there isn't such a large array of human services one ought to focus on the role of the ministry. And even there, many of my friends in the ministry say that up to 6 or more days of their week, other than the day spent leading worship on Sunday, is spent in counseling unwed mothers and helping people in tense and broken family situations and so on.

So I think it is a recognition, a broad and genuinely useful role, that religious groups play. But it's far beyond the worship function of religious groups. It's in the human service area where most of the money is spent.

Senator PACKWOOD. Thank you.

Ms. Winslow, I thought your point about the mileage was quite good. That doesn't appear in too many of the statements. This committee is quite familiar with it because we have had a perpetual debate about whether the mileage allowance should be increased and, if so, how much. It's normally not a debate within the committee so much as a debate between the committee and the Treasury Department.

It is a very valid point for many, many people who give of their time. It is little enough we can do to let them take some kind of mileage deduction.

Ms. WINSLOW. Again, I thank you on behalf of the Association for your support.

Senator PACKWOOD. Pat, any questions?

Senator MOYNIHAN. I would just like to wrap up one point here.

The last time the Junior League appeared before this committee was several years ago, and they came for a very simple purpose. To ask us—and they were the only national organization that did do this—to ask us if we would preserve against the effort the administration was making to abolish the adoption allowance. That program provides an allowance for children who have been placed in foster homes, if they have been adopted, to take with them a certain payment to the families that do the adoption. This was a matter of some concern to lower income families.

Why did the Junior League want this program continued? Because they spend a very great deal of their time in the very—what is the word—labor intensive, volunteer intensive, efforts of finding homes for children that are hard to adopt, hard to place, and placing them. This requires an enormous amount of attention, time, over long periods of time.

They were not here asking a thing for themselves. They were asking for something for these children. And to make their own operations possible, they have to raise small amounts of money. But without those small amounts of money, large things don't get done in the community.

And I would like to thank you for it, and say "stay at it." You have been at it a long while.

Ms. WINSLOW. Thank you. I can assure you that your remarks in support of the Junior League have been duplicated and have appeared in publications that have been circulated around the country.

Senator PACKWOOD. That's music to our ears. [Laughter.]

Thank you very much for coming. We appreciate it very much.

Senator PACKWOOD. Now we will move on to S. 2017. First, we will take a panel consisting of Maj. Gen. Bruce Jacobs, the staff director of the National Guard Association of the United States; and Sharron R. Shipe, vice president for Legislative Affairs, the National Military Family Association.

You have been very patient in waiting. I appreciate it.

General, do you want to go right ahead?

STATEMENT OF MAJ. GEN. BRUCE JACOBS, STAFF DIRECTOR, NATIONAL GUARD ASSOCIATION OF THE UNITED STATES, WASHINGTON, DC

General JACOBS. Mr. Chairman, thank you very, very much for giving us the opportunity to appear before you in the matter at hand, and to be presenting these comments in the place of Lt. Gen. LaVern E. Weber.

I am Maj. Gen. Bruce Jacobs, staff director of the National Guard Association. And with your permission, I will just make a brief statement since we have submitted our written statement.

Senator PACKWOOD. Your statement will be in the record in full.

General JACOBS. Thank you, sir.

Our association is of the opinion that the application of IRS ruling 83-3 to military members to offset tax deductions of home loan mortgages, and real property taxes, by the amount of tax exempt housing allowance could have a severe impact on the readiness of the National Guard.

The implementation of this ruling will in all likelihood be regarded by the National Guard community as nonsupportive of the total force policy, at a time when increased emphasis on the Guard as part of the total force has enhanced the Nation's defense at a decreased cost to the taxpayer.

This could effectively cause a decrease in accessions at a time when the National Guard is already experiencing nationwide some difficulty in meeting its Federal manpower objectives. Additionally, we have been warned that the Nation is facing a time when there will be far fewer in the manpower pool who are available for military service. In our view, revenues generated by the application of IRS ruling 83-3 could well be more than offset by increased costs.

The Congress provided tax exempt allowances to military members in full recognition of recruiting and retention objectives, to help maintain the momentum of the all volunteer force, and to avoid the need for an increase in basic military pay, which would lead, in turn, to higher retirement costs. Potentially, there is also the strong possibility that application of this ruling could lead to increased military construction costs.

The National Guard Association of the United States believes that the passage of legislation in line with S. 2017 or S. 2519 would serve as a strong and effective signal that an action which would be tantamount to a cut in military pay is simply not in the best interest of national security.

Thank you very much, Mr. Chairman. And I will be glad to answer any questions that I am able to.

Senator PACKWOOD. I agree with your statement and your conclusion completely. You are absolutely right about the pool of people that we have to draw from. All you have to do is look at the demographics and the birth rate and you realize what happens.

General JACOBS. Sir, in about 5 years' time, the strength, for example, of the Army National Guard, which is now the highest it has ever been at 420,000—even in the greatest day of military strength of the active forces, we have never had that size force—is projected to be required by the Federal Government to go to almost 500,000.

Senator PACKWOOD. Thank you, general.

[The prepared written statement of Lt. Gen. LaVern E. Weber follows:]

NATIONAL GUARD ASSOCIATION OF THE UNITED STATES

ONE MASSACHUSETTS AVENUE, NORTHWEST • WASHINGTON, D.C., 20001 • (202) 789-0031

STATEMENT BY

LIEUTENANT GENERAL LA VERN E. WEBER (RET.)

EXECUTIVE DIRECTOR

of the

NATIONAL GUARD ASSOCIATION OF THE UNITED STATES

to the

Subcommittee on Taxation and Debt Management

of the

Senate Committee on Finance

26 September 1984

SUMMARY

The implementation of IRS Ruling 83-3, which offsets tax deductions of home loan mortgages and real property taxes by the amount of tax-exempt housing allowances, could have a severe impact on the readiness of the National Guard if applied to military members.

The increased emphasis on the National Guard as part of the Total Force has enhanced the nation's defense at a decreased cost to the U.S. taxpayer. Historically and habitually, the ability of the National Guard to meet its readiness requirements has been directly related to fair and adequate compensation.

The implementation of this Ruling will, in all likelihood, be perceived by National Guard members as a lack of support for the Total Force Policy.

This could create a decrease in accessions at a time when the National Guard is experiencing some difficulty in meeting manpower objectives. Additionally, we have been warned that the nation is facing a period when there will be a decrease in the manpower pool available for military service.

The application of the Ruling could, in fact, result in higher costs if a demand is made for an increase in basic military pay. This would lead to increased retirement costs. Potentially, application of the Ruling also could lead to increased military construction costs.

In our view, revenues generated by the application of IRS Ruling 83-3 could well be more than offset by the increased costs that have been cited.

It should be pointed out that the Congress provided tax-exempt allowances to military members in full recognition of recruiting and retention objectives; to help maintain the momentum of the all-volunteer force; and to avoid the need for a basic military pay increase which could lead to higher retirement costs.

The National Guard Association of the United States believes that passage of legislation in line with S.2017 and S.2519 would be a strong and effective signal that the Congress does not regard action which would be tantamount to a cut in military pay to be in the best interest of U.S national security.

TESTIMONY BEFORE

The Subcommittee on Taxation and Debt Management

Senate Committee on Finance

Mr. Chairman and members of the subcommittee, I am pleased by the opportunity to appear before you to discuss the impact on members of the National Guard if Internal Revenue Service (IRS) Ruling 83-3 is applied to tax-exempt military housing allowances.

That ruling, if applied, would deny those who receive a tax-exempt housing allowance a full deduction for the amount of interest paid on a home loan mortgage and the real property tax paid on a residence which is being purchased.

The more than 56,000 members of the National Guard Association of the United States are deeply concerned that because of an internal memorandum by the IRS, that the ruling may be made to apply to the Basic Allowance for Quarters (BAQ) and the Variable Housing Allowance (VHA) received by military members.

We believe that application of this ruling could severely impact on the manpower and readiness of the National Guard.

In the past few years, the Congress has asked that more emphasis be placed on the Guard and Reserve forces as a means of retaining maximum national defense capabilities in the face of a $1.6 trillion budget deficit, growing at a rate of $200 billion each year.

In asking that better use be made of the National Guard and Reserve forces, the Congress suggested that personnel and force structure growth of active forces be stopped until the Department of Defense (DoD) could convince Congress that all of the roles and missions that could be turned over to the Guard and Reserves would be turned over. That was during the 1982 congressional session.

In 1983, the request for increased reliance on the Guard and Reserve grew. In the FY84 DoD Appropriations Bill, active military end strengths were reduced by 28,800 from the budget request and the Appropriations Committee said that the underlying theme was that the services should seriously consider transferring missions and units currently in the active force, or programmed to be added to the active force, to the Reserve components.

During this time, the military services, to include the National Guard, were experiencing a successful year in recruiting and retention. The Army National Guard attained a modern-day record strength of 417,178 at the end of September 1983. This exceeded budgeted end strength by 159. At the same time, the Air National Guard was manned at an all-time high of 102,170, exceeding the programmed end strength by 389.

These figures represent 46 percent of the Total Army's combat units and 65 percent of the Total Air Force's air defense capability. I cite these figures because they so strongly emphasize the significance of our achievements and capabilities.

We were delighted with these achievements, but recognized that they directly related to such factors as the sizable increases in pay and an improved benefits package passed by the Congress in 1980 and 1981.

In our view, the Congressional Budget Office (CBO), noting the successes, must have concluded that military pay, to include benefits, incentives and retirement, was more generous than needed. We believe that some members of the Congress must have reached the same conclusion.

In the FY84 DoD Authorization Bill, a proposal was enacted that eliminated the entitlement to a Variable Housing Allowance for Guard and Reserve members on active duty for less than 140 days. That was in September 1983. This was followed by a request to DoD to explain why the Basic Allowance for Quarters was not eliminated for those same Guard and Reserve members.

Less than a month later, various military publications announced that the tax-exempt status of BAQ and VHA was being threatened by an Internal Revenue Service Ruling that would preclude military members from taking tax deductions on mortgage interest rates for the amount of the tax-exempt military housing allowances.

As Guard and Reserve members looked at one pay cut that applied only to them, and at two other potential pay cuts, the Army National Guard was being asked to attain an end strength of more than 433,000 during fiscal year 1984 and almost 500,000 in fiscal year 1989. The Air National Guard was being asked to achieve a programmed strength of 104,104 in fiscal year 1984 and grow to almost 120,000 in FY89.

By the time the Congress reconvened for the second session of this Congress, the strength reports were in for the first quarter of fiscal year 1984. The Army National Guard, which had reached more than 417,000 in September, had lost 4,000 by the end of December. The Air National Guard, which traditionally meets or exceeds every strength goal, had lost 1,000 people in the same time.

More recent figures show the Army National Guard at approximately 422,000, which is 11,000 short of its objective of 433,000 scheduled for the end of FY84. The Air National Guard has recovered somewhat, with more recent figures showing it manned at 103,518 or 586 short of the FY84 end strength objective.

It is our belief that if the National Guard is to meet the manpower requirements, particularly the Army National Guard's goal of almost 500,000 by FY89, then the pay cut suggested by the application of IRS Ruling 83-3 should be avoided and that additional incentives may be needed to attract and maintain highly qualified personnel.

The increased emphasis on the National Guard as part of the Total Force already has enhanced the nation's defense at a decreased cost to the U.S. taxpayer and this has been achieved through the efforts of the Congress to provide fair and adequate compensation.

We believe military members, to include the National Guard, should continue to receive fair treatment and that the implementation of IRS Ruling 83-3 may not meet that criteria.

That belief is based on the fact that by law, the tax-exempt status accruing to BAQ and VHA is part of "regular military compensation." The military services frequently tell military personnel that they must count the tax advantage of entitlements as though the tax advantages were actual compensation and these tax advantages are so defined. Therefore, we believe that any action which reduces compensation will impact on the fair and adequate compensation that has allowed us to meet our present strength and any further reduction could result in a loss of personnel in both the full-time support force and part-time personnel.

Implementation of this ruling could most adversely affect Active Guard/Reserve (AGR) personnel in terms of finances. Presently, there are 15,896 Army National Guard and 5,863 Air National Guard AGR personnel assigned. Their duties are to insure the administration, recruiting and training readiness of the National Guard, in conjunction with the technician force.

These personnel receive the same entitlement to BAQ and VHA as do active duty personnel. However, the percentage of personnel in the National Guard affected by the ruling may run higher than that of the active force because AGR personnel frequently are not subject to permanent changes of station (PCS) as are active force members, and so they may be more apt to settle in a given community and purchase a home.

For members referred to as "part-timers," the impact will more likely affect morale rather than finances, since the amount they draw in BAQ and VHA is nominal. This morale factor, which is difficult to equate to dollar figures, ultimately could result in a decreased accession rate which can be equated to a dollar figure. It is estimated that for each loss, there is an average first year cost of $18,500 to train a new Army National Guard recruit.

Losses in these ranks could be hurtful since these personnel comprise approximately 92 percent of the Army National Guard strength and approximately 82 percent of the Air National Guard strength.

Since such personnel do not rely on the National Guard as their principal source of income, as do AGR or active duty personnel, such treatment as the elimination of VHA on short tours and the application of IRS Ruling 83-3, rather than being accepted, could be viewed as lack of support for the Total Force Policy.

At a time when more demands are required of these personnel in terms of training and readiness, it is difficult to ask them to do "more for less."

This could well result in a decrease in accessions at a time when the National Guard is having some difficulty meeting its manpower objectives. Also, we have been warned that, down the road, the nation is facing a period when there will be a marked decrease in the size of the pool of manpower available for military service.

It is estimated that the 18 to 21 year age bracket, from which volunteers are drawn, will be approximately 2.5 million less in 1987 and roughly four million less in 1995. We believe that the losses may be difficult to replace.

The present shortages and the anticipated shortages resulting from the population shrinkage and an improved economy are, we believe, further compounded by the shortages in the Army Individual Ready Reserve (IRR).

The IRR, which is composed of members liable to call-up to fill out units upon mobilization and as combat replacements is experiencing a shortage of more than 200,000 personnel. Because of these shortages, we believe that National Guard units should be maintained at not less than full wartime strength.

Our concern is that wartime strength cannot be reached without protecting the present entitlements and providing additional incentives, or returning to the draft.

We believe that one of the reasons the Congress has been generous in recent years in providing pay and allowance increases was to avoid the necessity of returning to the draft and to give the all-volunteer force a chance to work.

Considering the potential recruiting and retention problems, it is our belief that a decrease in compensation could push us closer to reinstating the draft.

Additionally, we believe application of IRS Ruling 83-3 could thwart the intent of Congress in another area.

During at least the last 15 years, Administrations and Congresses have increased allowances, including the Basic Allowance for Quarters, at a more rapid rate than they have increased military pay. The purpose of this has been to reduce ultimate retirement costs. Allowances, as you know, are not included in the computations which determine retired pay levels.

In 1980, the Congress altered an Administration request for increased military pay by establishing a new entitlement called the Variable Housing Allowance. VHA was instituted for a specific need caused by the high cost of housing which service members must often pay. Placing a part of that total compensation increase in VHA, as opposed to basic pay, again had the effect of holding down future retirement costs.

If the IRS ruling is extended to military personnel, it could, according to Senator John Tower, Chairman of the Senate Armed Services Committee, result in a demand for increased basic pay. Ultimately, that would drive up retirement costs.

In addition, the purpose of the Basic Allowance for Quarters, as determined in a 1981 Comptroller General decision, was to reimburse a service member for personal expenses incurred in acquiring non-governmental housing when rent-free government quarters adequate for the service member and any dependents were not furnished.

As stated before, members of the National Guard who are on AGR tours may settle in a given area and purchase homes. The reason they do not live in government quarters, although authorized, is because their unit of assignment frequently is not located at or near a military installation where such quarters are available.

If the IRS Ruling is applied, active duty and AGR personnel might find themselves unable to afford non-governmental housing and the result could be an increase in military construction in order to provide sufficient quarters for these personnel.

In summary, the application of the Ruling could, in fact, result in higher costs if a demand is made for an increase in basic military pay. This would lead to increased retirement costs. Application of the Ruling, also could potentially lead to increased military construction costs.

In our view, revenues generated by the application of IRS Ruling 83-3 could well be more than offset by the increased costs that have been cited.

It should be pointed out that the Congress provided the tax-exempt allowances of BAQ and VHA to military members in full recognition of recruiting and retention objectives; to help to maintain the momentum of the all-volunteer force; and to avoid the need for a basic military pay increase which would lead to higher retirement costs.

The National Guard Association of the United States believes that passage of legislation in line with the provisions of S.2017 and S.2519 would be a strong and effective signal that the Congress does not regard action which would be tantamount to a cut in military pay to be in the best interest of U.S. national security.

NGAUS
LEGISLATIVE
FACT SHEET 1984

TAX-EXEMPT STATUS OF BAQ AND VHA

1. GENERAL

- In an internal memorandum, the Internal Revenue Service (IRS) General Counsel suggested that IRS Ruling 83-3 apply to housing allowances of military personnel. The ruling stipulates that ministers who receive a parish allowance may not take income tax deductions on mortgage interest and real estate taxes paid from income received as a tax-free allowance. In the case of the military this could be made to apply to the Basic Allowance for Quarters (BAQ) and the Variable Housing Allowance (VHA).

- One of the reasons the Congress has been generous in recent years in providing pay and allowance increases was to avoid the necessity of establishing a peacetime draft.

- Administrations and Congresses have increased allowances, such as BAQ and VHA, at a more rapid rate than basic pay to reduce retirement costs.

- Application of the IRS revenue ruling to military personnel will have a hurtful effect on recruiting and retention of military forces.

- As the population shrinks over the next several years and as the economy improves, equitable compensation will be even more important in meeting strength requirements.

2. SPECIFICS

- By law, the Federal tax advantage accruing to BAQ and VHA is defined as part of "regular military compensation" (title 37, United States Code, section 101).

- Application of the IRS ruling will be a cut in pay for military personnel.

- Four bills (S.2017, S.2519, H.R. 4548 and H.R. 4572) which would preclude the IRS ruling from applying to military housing allowances have been introduced in the Congress.

3. NGAUS RECOMMENDATION

- That the Congress enact legislation to preclude the IRS ruling from applying to military members.

9/21/83

STATEMENT OF SHARRON R. SHIPE, VICE PRESIDENT FOR LEGISLATIVE AFFAIRS, NATIONAL MILITARY FAMILY ASSOCIATION, INC., ARLINGTON, VA

Senator **Packwood**. Ms. Shipe.

Ms. **Shipe**. Well, the National Military Family Association thanks you very much for allowing us to talk today about IRS tax ruling 83-3, and how it affects military families.

I will not go over what has already been said. Instead, I would like to talk to you a little bit more about military families. You may not know that National Military Family Association is the only national organization whose primary focus is military families. I want to remind you—and you may already know—that military families are a highly mobile segment of society. And to them, IRS 83-3 is just another PCS pain in the neck, PCS meaning "permit change in station." This is every time we move. We move 2 to 3 years. And when we get to new duty stations, our major concern is where are we going to live. It causes a lot of aggravation, a lot of fear, a lot of confusion.

When there are no homes available on base, when the rentals off base are exorbitantly high, then sometimes the only choice is to buy a home. Reasons for buying a home are more on the negative side. There is a big cash outlay in the beginning. Currently interest rates are very high. Taxes are high. It's very hard to get together any savings account of any sort when you are continually doing home repairs and putting money into a home.

The pros of buying a home for military families is that they hope to get together a little nest egg. Something maybe they can get a little investment out of. And then the other pro is that they expect to get some sort of a tax break on it.

Well, there are a lot of cons to buying a home and very few pros. And, of course, that tax break could be eliminated here very soon. So why do military families continue to buy homes?

Well, in their very mobile situation, they continue to buy homes because it gives them a sense of stability. And I would quickly like to read a quote. We are not sure where this came from. We know it came from some military wife, but I think it says things very well:

> In a continually nomadic life style home ownership may provide the only stability available to military families. For many, home ownership is the way they escape the geographic and social restlessness that is a part of military life.

I might point out, too, that of the almost 300,000 military home owners who will be affected by this ruling, over half of them are enlisted families. They are the ones who will be hardest hit by the possible pay cut, if they can no longer take money off of their income taxes. And they are the ones who work the hardest to get together capital to even buy a home in the beginning.

And what is happening here is military home owners are going to face the fact that they will no longer have the benefit the private sector employees have. It's very hard for them to face that.

I'd like to thank you for this opportunity to speak. And we really appreciate your including military families.

The bottom line on this is that I think in any decision on this military families must be considered.

Thank you.

Senator **Packwood**. I know exactly what you mean about purchasing homes. One of my closest friends in Portland was a career Navy person. He even worked for me for 5 or 6 years after he retired from the Navy. As I had known him over the years, every place he went he and his wife bought a home. He and his wife spent some time fixing it up, and joining community groups. He said it was to get a sense of some roots wherever you were even though you knew it was going to be 2 or 3 years, 4 years at most under extraordinary circumstances.

Ms. **Shipe**. Yes.

Senator **Packwood**. But they always bought. They finally came back home to Portland, and bought a house there. But for the very reason that you said is why they bought.

[The preapred written statement of Ms. Shipe follows:]

National Military Family Association, Inc.

2666 Military Road, Arlington, Virginia 22207 703 - 841-0462

STATEMENT OF

SHARRON SHIPE

VICE PRESIDENT FOR LEGISLATIVE AFFAIRS

NATIONAL MILITARY FAMILY ASSOCIATION

BEFORE THE

SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT

OF THE

SENATE FINANCE COMMITTEE

SEPTEMBER 26, 1984

National Military Family Association, Inc.

2666 Military Road, Arlington, Virginia 22207 703 - 841-0462

Mr. Chairman:

The National Military Family Association (NMFA) is honored to have this opportunity to present views on Internal Revenue Service Ruling 83-3, and its affects on military families. For the information of the members of the Committee, NMFA is a volunteer, non-profit organization, the only national organization whose primary focus is the military family.

Our purpose in testifying today is to provide a different perspective on IRS TAX RULING 83-3, how it affects, and how it is perceived to affect, military families. You have already heard testimony from a number of distinguished witnesses who have highlighted many important facts for your consideration.

You are well aware that tax exempt housing allowances are an important aspect of the total Military Compensation Package.

- * At Congress' direction, since 1982, military members have annually been advised in writing of their tax advantage in order to illustrate the total value of military compensation.
- * The Uniformed Services Pay Act of 1965 sets in the record the amounts by which military pay scales are adjusted downward, because of the tax free status of allowances, thereby documenting the intended tax advantage.
- * 37 US Code 101 (25) in its definition of regular military compensation includes Basic Pay, Basic Allowance for Quarters (including Variable Housing Allowance), Basic Allowance for Subsistence, and "Federal tax advantage accruing to the

aforementioned allowances because they are not subject to Federal income tax."

You also know that the extension of IRS Ruling 83-3 to the military will necessitate BAQ/VHA rate increases and/or a substantial pay increase.

- The BAQ/VHA raise needed to offset the negative impact of the IRS ruling is over $1 billion, more than 3 times the revenue generated if the ruling is extended to the military.
- Just a 1% across-the-board pay raise would eliminate any revenue generated from the ruling.

Studies indicate that the families' attitudes, and particularly the attitude of the spouse, is critical to retention and readiness. As stated by Caspar Weinberger, Secretary of Defense, in his Annual Report to Congress, "Service members are making career decisions based on quality of life and family issues." IRS Ruling 83-3, by decreasing disposable income, will have a negative effect on family quality of life and therefore reduce retention and readiness.

- Military homeowners nearing retirement (the most highly trained and hardest to replace service members) may decide to retire at 20 years rather than endure this pay cut, even though they would willingly serve longer. Military homeowners will face a combined pay loss of over $350 million per year.
- The retention loss will also affect recruitment. As the number of eligible youths declines, as incentives to attract quality troops disappear, and as highly trained service members retire, how will an effective fighting force be maintained?

National Military Family Association wishes to provide you with the military family's side of this issue, one that you may not have considered, but one that is continually on the minds of every military home owning family and of those who hope to own a home in the future. IRS 83-3 is perceived as "just another PCS pain in the neck!"

- * Military families are a highly mobile segment of our society. Frequent permanent change of station (PCS) moves are a well-known and frequently discussed aspect of their life style.
- * One of the biggest concerns in each of these frequent moves is: "Where are we going to live?" At many duty locations, there is insufficient military housing available and waiting lists can run into many months and occasionally years. The choice then becomes one of renting or buying. Often when base Housing is not available and rentals are exorbitantly high, home ownership is the only answer at the new duty station. There are a number of inherent problems already built into home ownership, among them:
    - Initial financial hardship due to downpayment and closing costs
    - Costs added to mortage due to high interest rates and taxes
    - Financial drain on savings due to home improvements and repairs
    - Financial loss on home sales due to low realty market and realtor fee

  - Inability to oversee rental of home when stationed overseas

Home ownership benefits are minimal:

  - Financial "nest egg" (less for military families due to frequency of buying and selling, often in a poor sales market)
  - Income tax benefit (would be eliminated by 83-3) is one of the main reasons military families buy a home

Since the "pros" of home ownership are marginal and the "cons" are many, why then do military families still buy homes? In a continually nomadic lifestyle, home ownership may provide the only stability available to military families. For many, home ownership is the way they escape the geographic and social restlessness that is part of military life. The military family moves an average of seven times in a normal career. Many have endured the aggrevations of buying and selling at each duty station in hopes of avoiding loss of income by putting cash into a rental, with no return on their investment. IRS 83-3 could force some to sell their homes and return to the rental market in the often inflated captive market surrounding military bases.

There is one other important fact you should consider:

* Of the almost 300,000 military homeowners, over half are enlisted families from all paygrades. They are the ones hardest hit by the shortages in base housing. They are the ones who struggle the most to find the capital to buy a home. IRS 83-3 will result in a de facto pay cut of between $1500 and $3200 per year. This can be a sizable percentage of total pay.

- An E-5 in Denver faces a 4% pay cut.
- An E-6 in Washington, D. C. faces a 4.8% pay cut.
- An E-8 in Seattle faces a 5.1% pay cut.

In conclusion, the National Military Family Association feels that in making a final decision on the full effects of IRS Ruling 83-3, the military family must be considered. They have had to endure the instability of frequent moves. Must they now have to "endure" inflated home rental costs without the option of home ownership available to private sector employees? We request that you endorse and support the Warner-Helms initiatives to the FY85 Defense Authorization Bill. In particular, we request that you favorably report to the floor of the Senate S. 2017 and S. 2519.

Thank you for this opportunity to testify about the effects of IRS Ruling 83-3 on military families.

National Military Family Association, Inc.

2666 Military Road, Arlington, Virginia 22207 703 · 841-0482

INTERNAL REVENUE SERVICE RULING 83-3

In January 1983, the Internal Revenue Service issued Revenue Ruling 83-3 which stated that the use of tax exempt income to pay otherwise deductible expenses makes those expenses non-deductible under Section 265 (1) of the IRS Code.

Although the final ruling only affected ministers, it could work to the detriment of military members and their families and so has caused alarm and confusion within the military community. If applied to service personnel, the ruling would eliminate their deduction for interest and real estate taxes paid on a personal residence, to the extent that these amounts equal tax-free housing allowances.

The Senate FY85 Authorization Bill contains an amendment exempting military personnel and ministers from Revenue Ruling 83-3, as it pertains to the use of housing allowance. The House Authorization Bill does not address this issue.

Basic Allowance for Quarters (BAQ) is not a fringe benefit. It is a part of a total salary for services rendered.

* Application of Revenue Ruling 83-3 to the military will result in a 2% to 6% pay cut for the almost 300,000 members who own their homes. Over half of these members are enlisted.

* The BAQ/VHA raise needed to offset the negative impact of the IRS ruling is over $1 billion (more than three times the revenue generated if the ruling is extended to the military.

With forced moves occurring every 2 to 3 years, the only advantage to owning a home is the current tax advantage. If military members leave the housing market because of Revenue Ruling 83-3:

* The demand for base housing will increase as will the demand for rental housing with a concurrent increase in rents.

* Increased rental rates would exert pressure on the already capped VHA program, causing families to carry a larger portion of unreimbursed housing costs.

Applications of IRS Ruling 83-3 to the military community will adversely affect morale and, possibly, retention as military members perceive a further erosion of benefits.

* Increases in tax revenues due to the ruling will be more than offset by the real and opportunity costs associated with across the board pay raises necessary to offset the ruling, training and moving costs incurred to replace members who choose to retire or separate, and further family dissatisfaction.

Military members and their families make significant personal and monetary sacrifices to support this country's national defense. Secretary of Defense, Caspar Weinberger, recognized this sacrifice in his July 12, 1983 letter to Secretary of Treasury, Donald Regan, when he stated, "I do not believe that further aggravating the already more arduous life of our uniformed personnel and their families...is in the best interests of the nation."

National Military Family Association supports inclusion of the Senate amendment in the final DOD Authorization Bill for FY85.

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Senator Packwood. I have no questions. Your case is absolutely justified, and I hope, as I said earlier, before this session of Congress is done we will have remedied it.

Thank you, General, Ms. Shipe.

Ms. Shipe. Thank you very much.

General Jacobs. Thank you.

Senator Packwood. We will conclude with a panel of Forest Montgomery, representing the National Association of Evangelicals; Dr. Darold Morgan, chairman of the Steering Committee Church Alliance, and president of the Annuity Board of the Southern Baptist Convention; and the Reverend Henry Treptow, executive secretary of the board of pensions of the American Lutheran Church.

Do you want to start, Mr. Montgomery?

STATEMENT OF FOREST D. MONTGOMERY, OFFICE OF PUBLIC AFFAIRS, NATIONAL ASSOCIATION OF EVANGELICALS, WASHINGTON, DC

Mr. Montgomery. Thank you, Mr. Chairman.

I am Forest Montgomery. I'm counsel to the Office of Public Affairs of the National Association of Evangelicals. We are gratified for this opportunity to present our concerns before this committee on the ramifications of the abrupt change in the law precipitated by the Service's publication of Revenue Rule 83-3.

As a matter of tax equity, we agree with the general principle, reflected in section 265 of the Code, that double tax benefits should not be allowed. But the issue presented here is not confined to this one aspect of tax policy. We believe the Service's unilateral change in the law needs to be carefully examined in several contexts.

First, there is a matter of tax equity between ministers and the military. Both receive a tax free quarters allowance, but the revenue ruling applies only to ministers.

Whatever solution should emerge from Congress, we can see no equitable basis for treating the clergy any differently from the military in this area. And I might add that neither could the IRS office of chief counsel as its GCM 38949 of August 21, 1981, plainly states.

Second, we contend that apart from the question whether the IRS was technically correct 29 years ago or is technically correct today, major tax changes that substantially increase tax liability should be the province of Congress, not the Service. And this would seem especially true where, as the Service itself conceded in GCM 31939 back in 1961 there is "evidence indicating the Congress intended section 107"—that, of course, is the parsonage allowance—"to be liberally construed." Incidentally, GCM 31939 also stated that it would be "extremely difficult" in 1960, "at that late date," to reverse the favorable ruling that was given to ministers in 1955. But now, some 29 years after the initial favorable ruling, the Service apparently believes that it is no longer extremely difficult to make this basic change in the tax law. The IRS giveth and the IRS taketh away, as it were.

Apart from the merits of the double benefit question, we believe the precipitate action of the IRS is poor tax policy, reflects little sensitivity to the financial concerns of the religious community, and in any case should only have been proposed after granting the religious community an opportunity to at least be heard on this important issue.

Third, Congress should understand that increased taxes on either the military or the clergy as a result of what we believe to be an erroneous application of section 265, would not materially enhance Government coffers. Indeed, the irony is that a net revenue loss might occur. With respect to the military, an increase in tax liability would have to be met by an increase in compensation if present salary scales are to be preserved. Since the Government is both tax collector and employer, the result is a wash.

With respect to the clergy, if their salary levels are to be maintained, the congregations will have to contribute more to the church. Because such contributions are tax deductible and because the members of the congregation are often in a higher tax bracket than the minister, the revenue to the Government from increased taxes on a minister is likely to be more than offset by a decrease in tax revenue from members of the congregation.

Fourth, if Congress should decide that after almost 30 years the tax rules should be changed with respect to ministers and the military, we would urge some suitable effective date in the future or a phasein provision in order to alleviate financial hardship. Of course, any such provision would make an already complicated tax code even more complex.

We believe it would be preferable to simply preserve the status quo by legislatively reversing Revenue Rule 83-3, as the bill under consideration would do. In saying that, we do not overlook the fact that the double tax benefit to ministers and the military accord them a tax advantage unavailable to other taxpayers receiving the same gross income. However, we are unaware that the public generally is concerned that ministers and the military have enjoyed that tax treatment for three decades.

Thank you.

Senator PACKWOOD. Thank you.

[The prepared written statement of Mr. Montgomery follows:]

nae
NATIONAL ASSOCIATION OF
EVANGELICALS
OFFICE OF PUBLIC AFFAIRS/1430 K Street NW/Ste. 900/Washington, D.C. 20005/(202) 628-7911

September 26, 1984

STATEMENT OF
FOREST D. MONTGOMERY
Counsel, Office of Public Affairs
NATIONAL ASSOCIATION OF EVANGELICALS
on
S. 2017, A BILL TO REVERSE
REVENUE RULING 83-3
before the
SUBCOMMITTEE ON TAX AND DEBT MANAGEMENT
of the
COMMITTEE ON FINANCE
UNITED STATES SENATE

Mr. Chairman and Members of the Committee:

My name is Forest Montgomery. I am Counsel to the Office of Public Affairs of the National Association of Evangelicals. The NAE is an association of some 38,000 churches included within forty-four member denominations and an additional thirty-five nonmember denominations. We serve a constituency of 10-15 million people through our commissions and affiliates, such as World Relief and National Religious Broadcasters.

We are gratified for this opportunity to present our concerns before this committee on the ramifications of the abrupt change in the law precipitated by the Service's publication of Rev. Rul. 83-3, 1983-1 C.B. 72.

As a matter of tax equity, we agree with the general principle, reflected in section 265 of the Internal Revenue Code, that double tax benefits should

■ NA[illegible]ONS ☐ Commission on Chaplains ☐ Evangelical Churchmen Commission
☐ Evangelical [illegible]tion ☐ Evangelism and Home Missions Association ☐ Higher Education Commission
☐ [illegible]tion ☐ Stewardship Commission ☐ Women's Fellowship
■ AFFILIATES ☐ Ame[illegible]es ☐ Evangelical Foreign Missions Association ☐ National Religious Broadcasters
[illegible]ATION ☐ World Relief of NAE
[illegible] AGENCIES ☐ Evangelical Ado[illegible] and Family Services, Inc
☐ Evangelical Child and Family Agency ☐ Evangelical Purchasing Service
■ NATIONAL OFFICE: 450 E. Gundersen Drive, Carol Stream/IL/60188
P.O. Box 28/Wheaton/IL/60189/(312) 665-0500

not be allowed. But the issue presented here is not confined to this one aspect of tax policy. We believe the Service's unilateral change in the law needs to be carefully examined in several contexts.

First, there is the matter of tax equity between ministers and the military. Both receive tax-free quarters allowances, but Rev. Rul. 83-3 applies only to ministers. Whatever solution should emerge from Congress, we can see no equitable basis for treating the clergy any differently from the military in this area. Neither could the IRS Office of Chief Counsel, as its GCM 38949 of August 21, 1981, plainly states.

Second, we contend that apart from the question whether the IRS was technically correct 29 years ago or is technically correct today, major tax changes that substantially increase tax liability should be the province of Congress, not the Service. And this would seem especially true where, as the Service itself conceded in GCM 31939 (December 22, 1961), there is "evidence indicating that Congress intended section 107 to be liberally construed." (Emphasis added.) Incidentally, GCM 31939 also stated that it would be "extremely difficult" in 1960, "at that late date," to reverse the favorable ruling that was given to ministers in 1955. But now, some 29 years after the initial favorable ruling, the Service apparently believes that it is no longer "extremely difficult" to make this basic change in the tax law. The IRS giveth, and the IRS taketh away, as it were. Apart from the merits of the double benefit question, we believe the precipitate action of the IRS is poor tax policy, reflects little sensitivity to the financial concerns of the religious community, and in any case should only have been proposed after granting the religious community an opportunity to at least be heard on this important issue.

Third, Congress should understand that increased taxes on either the military or the clergy, as a result of what we believe to be an erroneous application of section 265, would not materially enhance government coffers. Indeed, the irony is that a net revenue loss might result. With respect to the military, an increase in tax liability would have to be met by an increase in compensation if present salary scales are to be preserved. Since the government is both tax collector and employer, the result is a wash. With respect to the clergy, if their salary levels are to be maintained, the congregations will have to contribute more to the church. Because such contributions are tax deductible, and because the members of the congregation are often in a higher tax bracket than the minister, the revenue to the government from increased taxes on the minister is likely to be more than offset by a decrease in tax revenue from members of the congregation.

Fourth, if Congress should decide that after almost 30 years the tax rules should be changed with respect to ministers and the military, we would urge some suitable effective date in the future or a phase-in provision in order to alleviate financial hardship. Of course, any such provision would make an already complicated tax code even more complex. We believe it would be preferable to simply preserve the status quo by legislatively reversing Rev. Rul. 83-3. In saying that, we do not overlook the fact that the double tax benefits to ministers and the military accord them a tax advantage unavailable to other taxpayers receiving the same gross income. However, we are unaware that the public generally is concerned that ministers and the military have enjoyed that tax treatment for three decades.

STATEMENT OF DR. DAROLD H. MORGAN, CHAIRMAN, STEERING COMMITTEE CHURCH ALLIANCE, WASHINGTON, DC, AND PRESIDENT, ANNUITY BOARD OF THE SOUTHERN BAPTIST CONVENTION, DALLAS, TX

Senator PACKWOOD. Dr. Morgan.

Dr. MORGAN. Mr. Chairman, I think you have a list of my suggestions here, and I will just review that briefly with an aside to Mr. Montgomery, who stole most of my thunder.

Senator PACKWOOD. You have probably discovered in listening to the previous panels that there is only so much that can be said on the topic.

Dr. MORGAN. That's exactly right.

Senator PACKWOOD. Indeed, we try to accommodate as many witnesses as possible, but often there are more witnesses than there are arguments. [Laughter.]

Dr. MORGAN. Touche.

I am Darold Morgan, the president of the Annuity Board of the Southern Baptist Convention in Dallas, TX. And I wear another hat as the chairman of the Church Alliance, which is an organization composed of the chief executive pension officers of 28 of the major denominations in America. This is an extraordinary ecumenical group, probably as broad based as any religious group in the country. We have strong support from our Jewish members, the Roman Catholics, the Mormons, the Unitarian Universalists, the Seventh Day Adventist, and all of the mainline Protestant groups.

And in the room today are a number of those representatives. I wish I had time to introduce all of them. Many of their names are in my testimony.

I'm particularly delighted that James Andrews, the stated clerk of the United Presbyterian Church of the General Assembly of that great organization is present today.

Dr. William Combee, whose name is not in this list, who is one of the directors of missions in the Virginia Baptist Convention, is present.

And I'm delighted that they are here.

And all of us support Senate bill 2017, as introduced by Senator Helms. And I think the excellent testimony of Senator Warner this morning corroborates much of the concern that we have, both as representatives of the clergy and of the military as well.

One of the reasons why those of us who work in the church pension sector are so concerned about this, Senator, is because over the years we have seen so many, many of our ministers come to retirement without housing. And now for these 30 years we have been insisting on the housing allowance approach. I think every one of those represented here today could tell you about the difficulty this new ruling, Revenue Rule 83-3, is going to mean.

I don't have time to go into all of that. The testimony is clear, as we try from our perspective, to bring home the fact that the IRS unilaterally has done something that rightly belongs, we think, to Congress to do this kind of action.

Senator PACKWOOD. There are some issues that have very geographically narrow bases. This particular one has a very broad base. I suspect if any member of the Senate or of the House has been home to his or her district recently they have been talked to by someone about this particular subject.

Dr. MORGAN. Well, our concern is for fairness, for equity, all across the line at this point, for understanding of what this ruling will do to clergy in all our denominations. It lacks eloquence at this point, but we are deeply concerned. There was a conversation this week with a church that wanted to call a pastor; the housing issue literally blocked it. And our persuasion with the congregational background, this is totally different than my Lutheran friend here, but——

Reverend TREPTOW. Not quite.

Dr. MORGAN. It is a concern that we want to share. And we are delighted that we can have this opportunity to bring these things to you, and share far more in detail in the written deposition that we have shared with your committee.

Senator PACKWOOD. Thank you very much.

[The prepared written statement of Dr. Morgan follows:]

September 26, 1984

STATEMENT OF DAROLD H. MORGAN BEFORE SENATE FINANCE SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT ON S. 2017

Mr. Chairman, I am Darold Morgan, President of the Annuity Board of the Southern Baptist Convention. I also serve as chairman of the Church Alliance, which is an organization consisting of chief executive pension officers of 28 major denominations. We are concerned with the welfare of our clergy.

I believe that the Church Alliance represents the broadest denominational cooperation of religious groups in America. We have strong participation from Jews, Roman Catholics, the major Protestant groups, the Seventh-day Adventists, the Mormons and the Unitarian Universalists.

I would like to introduce interested clergymen in attendance today who are deeply concerned about the subject of these hearings: Rev. James E. Andrews, Stated Clerk of the General Assembly of the Presbyterian Church (U.S.A.); Arthur M. Ryan, President, the Board of Pensions of the Presbyterian Church (U.S.A.) and J. Bradley Williams, Associate General Director for Personnel Relations of the Presbyterian Church (U.S.A.); Rabbi Matthew H. Simon, Chairman of the Joint Retirement Board of the Rabbinical Assembly, The Jewish Theological Seminary of America, and the United Synagogue of America; Henry F. Treptow, Executive Secretary, The Division of Pensions, The American Lutheran Church; and Richard Arneson, Everett Goodwin, Donnell Harris, George Hill, John Laney, and James Langley, of the American Baptist Churches.

The Church Alliance supports S. 2017 introduced by Senator Jesse A. Helms and similar bills such as S. 2519 introduced by Senator John W. Warner.

If enacted, S. 2017 will prevent the IRS from enforcing Revenue Ruling 83-3 against the homeowning clergy of America.

This ruling reverses an almost-30-year position of the Internal Revenue Service by newly interpreting §265(1) of the Code to deny ministers, rabbis and priests itemized deductions for mortgage interest and real estate taxes paid on a personal residence to the extent the amounts expended are allocable to a housing allowance excludible from income under §107(2) of the Code.

We believe that Revenue Ruling 83-3 is an erroneous interpretation of the tax law and a usurpation of legislative power by the IRS. Revenue Ruling 83-3 will cause financial hardship to ministers. Furthermore, the IRS action has been discriminatory in that the military who also receive housing allowances has not been affected.

In Revenue Ruling 83-3, the IRS has attempted to diminish the value of the housing allowance benefit available to the clergy. Congress enacted §107(2) in 1954 to equalize the tax treatment of the minister who lives in a parsonage provided by his church with that of a minister who receives a housing allowance. Beginning in 1955, the Service consistently ruled that a minister could deduct interest and taxes even though his housing allowance was excludible from gross income. But, in 1983, the Service unilaterally reversed its position.

This is no indication that Congress ever intended that §265(1) would be later applied by the IRS to reduce the clergy's tax benefit provided by the §107(2) housing allowance exclusion. Section 265(1) was enacted twenty years before §107(2) to prevent so-called "double deductions." Revenue Ruling 83-3 erroneously applies §265(1) to the clergy's housing allowance exclusion in order to disallow the deduction of interest and taxes on a personal residence. Prior to Revenue Ruling 83-3, the clergy receiving the housing allowance exclusion have been able to claim the interest and taxes deduction like other taxpayers. The combination of an exclusion and a deduction is not a "double deduction."

Revenue Ruling 83-3 is law-making by the IRS. The IRS must not be permitted to make outright changes in the substantive law. This is the exclusive power of our elected officials in Congress.

The denial of interest and taxes deductions does truly create serious financial hardships for most homeowning ministers. In fact, for the average minister, Revenue Ruling 83-3 will increase his federal income taxes by 57 percent.

The clergy receive on average the lowest salaries of any professional group and now their congregations will be called upon to make up the financial difference in supporting their ministers. Many ministers are justifiably afraid their congregations will not be able to make up the difference. The money just isn't there for many denominations, especially in smaller churches.

The IRS has admitted that additional tax revenues raised from the clergy will be miniscule, yet the impact on them will be devastating. There is no economic reason justifying Revenue Ruling 83-3.

We urge you to act to resolve this problem which impacts so strongly on thousands of American clergy who are devoting their lives to preaching and serving the spiritual and physical needs of others.

The Administration has defended recent budget cutbacks in federal social welfare programs by saying that the churches and other volunteer agencies will take up the slack and minister to needy persons in their communities. Yet, with the financial costs resulting from Revenue Ruling 83-3 and Social Security tax increases for ministers, many ministers personally and their congregations as a whole will have to divert funds from church purposes to pay more federal taxes.

The impact of Revenue Ruling 83-3 on ministers who now own their homes will be as pronounced as the adverse financial impact that a general repeal of the mortgage interest and real estate tax deductions would have on American homeowners across the board. Revenue Ruling 83-3 is tantamount to a major tax increase for ministers enacted by the IRS, not the Congress.

We have received reports from accountants that Revenue Ruling 83-3 will force many ministers who own homes to sell these homes, and this will exacerbate the dislocation of ministers. It will create a chilling effect on the ability of ministers to respond to a call of another congregation.

Revenue Ruling 83-3 will destroy the best-laid financial plans of many churches and ministers. Ministers have entered into long term 30-year mortgage arrangements, and now the IRS reversal completely upsets these arrangements. Ministers entered into their mortgages in good faith and based upon prior long standing IRS interpretations. This reversal by the IRS has caused and will cause serious financial hardships for many churches and ministers. We do not believe that tax considerations should enter into a minister's decision to remain with a congregation or choose to serve a new congregation.

There is also a significant issue of fairness involved here, because Revenue Ruling 83-3 has been applied in a discriminatory manner. To date, Revenue Ruling 83-3 has been imposed only upon ministers whereas the military who receive tax free quarters allowances have not been similarly affected.

Of course, S. 2017 would address this question because it provides that both ministers and the Armed Services personnel can deduct their interest and taxes even if they receive a housing or quarters allowance. This seems to the Church Alliance to be the most equitable solution. Not only is it consistent with the Congressional intent in enacting §107(2), and with the IRS's long standing 30-year interpretation allowing ministers the interest and taxes deductions, but furthermore the proposed legislation treats ministers and the military in a fair and equitable way as both groups receive housing or quarters allowances.

Furthermore, S. 2017 will allow ministers and the military to be treated like all other homeowning Americans who have relied upon the availability of deductions for interest and taxes in purchasing their homes.

I would like to conclude my remarks by saying that for reasons of tax policy, legislative authority, and in order to avoid economic hardship and assure fairness, Revenue Ruling 83-3 should be immediately overturned by Congressional action.

Thank you very much for allowing us the opportunity to present our position before your subcommittee.

September 26, 1984

SUMMARY OF PRINCIPAL POINTS IN THE STATEMENT OF DAROLD H. MORGAN

1. Revenue Ruling 83-3 reverses a 30-year historical position of the Internal Revenue Service by newly interpreting Section 265(1) of the Code to deny clergymen itemized deductions for mortgage interest and real estate taxes paid on a personal residence to the extent the amounts expended are allocable to a housing allowance excludible from income under Section 107(2) of the Code.
2. Revenue Ruling 83-3's interpretation of Section 265(1) of the Code is erroneous and conflicts with the legislative history of that section.
3. The IRS is not empowered to legislate new tax law.
4. Revenue Ruling 83-3 creates severe financial hardships for ministers who own their own homes and receive housing allowances.
5. The IRS's action has been discriminatory in that the military who also receive tax-free housing allowances have not been affected.
6. Revenue Ruling 83-3 diminishes the value of the housing allowance tax benefit available to the clergy.
7. No significant revenues will be raised by this ruling.
8. Revenue Ruling 83-3 does not do away with a double deduction that is prohibited by Section 265(1) of the Code. Rather it is directed at a deduction (Sections 163 and 164) and an exclusion (Section 107(2)).
9. Church funds will be diverted from church purposes to pay increased taxes.

STATEMENT OF REV. HENRY F. TREPTOW, EXECUTIVE SECRETARY, THE BOARD OF PENSIONS, THE AMERICAN LUTHERAN CHURCH, MINNEAPOLIS, MN

Senator PACKWOOD. Reverend Treptow.

Reverend TREPTOW. Thank you, Senator Packwood.

Darold, perhaps I can wax eloquence on a couple of other issues.

Dr. MORGAN. Do it, Fritz.

Reverend TREPTOW. I'm Henry Treptow, the executive secretary and administrator of the board of pensions and its plans, both benefit and pension plans, for the American Lutheran Church, Minneapolis, MN.

Our denomination has approximately 7,000 clergy. And where I sit, I see a lot of potential hurt coming if 83-3 becomes law.

I have two particular issues. My statement is a half page long. The first issue is that of fiscal concern. Our ministers are generally lowly paid. The average in 33 denominations, including housing, currently is $20,133 a year. That graph is in your material. And most presently live in housing that is marginally substandard. If Revenue Ruling 83-3 becomes law, most will simply no longer be able to afford the housing that they now own and will be forced to sell in many cases. There are not many options for these people. Purchasing a home with a lower value is not really an option because that home would be substandard by anyone's definition.

Most congregations would not be able to afford to purchase a parsonage, which years ago they may have owned. Therefore, the effect of implementing Revenue Ruling 83-3 will be that the bulk of our ministers will live in rental units either directly provided by the congregation or rented by the minister with a provision of a parsonage allowance.

The consequence of forcing the bulk of our ministers into rental units is ironic. Real estate tax and interest deductions will be shifted to another person. Perhaps a physician or lawyer that has invested in the rental unit as a tax shelter. It is certain the leasor will be a higher income tax bracket person than the minister. Therefore, we see the implementation of 83-3 as ironically resulting in the loss of tax revenue, not a gain in tax revenue.

A second concern. As we see it, forcing ministers into rental units cannot be said to be good public policy because we will simply have a group of ministers who reach retirement age without owning a home. We do not see that public policy is furthered by discouraging home ownership by retired individuals.

As Senator Moynihan said on the other issue, that is a social issue, social matter, and it's of great concern to us.

Thank you, Mr. Packwood.

[The prepared written statement of Reverend Treptow follows:]

The American Lutheran Church
Board of Pensions

422 South Fifth Street
Minneapolis, Minnesota 55415
612-330-3100

FINANCE SUBCOMMITTEE HEARING ON MINISTERS' AND MILITARY HOUSING DEDUCTIONS

September 26, 1984

My name is Henry F. Treptow. I am the Executive Secretary of the Board of Pensions of The American Lutheran Church. The American Lutheran Church is one of the three largest Lutheran denominations, having approximately 7,000 ministers.

Our ministers are generally low paid and most presently live in housing that is only marginally above substandard. If Revenue Ruling 83-3 becomes law, most will simply no longer be able to afford the housing that they now own and will be forced to sell. There are not many options for these people. Purchasing a home with a lower value is not really an option because that home would be substandard by anyone's definition. Most congregations would not be able to afford to purchase a parsonage. Therefore, the effect of implementing Rev. Rul. 83-3 will be that the bulk of our ministers will live in rental units either directly provided by the congregation or rented by the minister with a parsonage allowance.

The consequence of forcing the bulk of our ministers into rental units is indeed ironic. The real estate tax and interest deductions will be shifted to another person, probably a physician or lawyer, who has invested in the rental unit as a tax shelter. It is certain that the lessor will be in a higher income tax bracket than the minister. Therefore, we see implementation of Rev. Rul. 83-3 as ironically resulting in a loss of tax revenue, not a gain in tax revenue.

As we see it, forcing ministers into rental units cannot be said to be good public policy because we will simply have a group of ministers who reach retirement age without owning a home. We do not see what public policy is furthered by discouraging home ownership by retired individuals.

THE NON COMMISSIONED OFFICERS ASSOCIATION OF THE UNITED STATES OF AMERICA

"STRENGTH IN UNITY"

Statement of

Richard W. Johnson, Jr.
Director of Legislative Affairs

before the

Subcommittee on Taxation
and Debt Managment
Committee on Finance

on

Military Housing Deductions

September 26, 1984

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Mr. Chairman, the Non Commissioned Officers Association of the USA sincerely appreciates this opportunity to express its views regarding proposals affecting the tax status of military housing allowances. NCOA is the largest professional military enlisted organization of its kind representing more than 250,000 associated members. Nearly 85 percent of the Association's regular members are serving on active duty in the Army, Marine Corps, Navy, Air Force or Coast Guard. Many will be directly affected by the action of this committee and the future of the legislative proposals under consideration. NCOA commends the committee for scheduling hearings on S. 337 and S. 2017, both of which seek to preempt administrative rulings by the Internal Revenue Service seeking to make housing allowances received by military personnel taxable under certain circumstances.

Many would be quick to argue the IRS is only seeking to reduce allowable home ownership deductions by the amount of tax free allowances received, so let us not bait the issue. The Internal Revenue Service is seeking to enhance revenues by making more income taxable. In this case the IRS has targeted military taxpayers. Essentially, the IRS is seeking to increase the military taxpayer liability by the amount of tax free housing allowances received. Notwithstanding the semantics, housing and variable housing allowances will become taxable for military members who live in homes they own if the IRS is successful. As a result the Regular Military Compensation of more than one third of all career enlisted military personnel may be reduced by administrative fiat unless Congress acts positively on this issue.

It is important at this point to examine and understand how Regular Military Compensation is defined and used. Regular Military Compensation (RMC) is defined in Section 101(25) Title 37, United States Code. **". . .(RMC) means the total of the following elements that a member of a uniformed service accrues or receives, directly or indirectly, in cash or in kind every payday: basic pay, basic allowance for quarters (including any variable housing allowance or station housing allowance), basic allowance for subsistence; and Federal tax advantage accruing to the aforementioned allowances because they are not subject to Federal income tax."** [37 USC sec.101 (25)]. This is no antiquated definition of military pay. Indeed, it was added on September 19, 1974 by Public Law 93-419 and was slightly modified by Public Law 96-579 on December 23, 1980 to include the parenthetical phrase concerning variable and station housing allowances. However, the non-taxable nature of housing allowances reinforced in current law is built on a foundation created by *Jones v. United States*, [60 Ct.Cl. 552 (1925)] in which the Court of Claims held that, **". . .within the meaning of the income tax law, neither the provision of Government quarters nor the commutation thereof was 'income' subject to taxation."** In reaching their decision the Court of Claims drew a careful distinction between pay and allowances which has survived the several changes in military compensation since the ruling was issued.

Congress has been careful to preserve the difference and the tax advantages associated with it. In its report on the Uniformed Services Pay Act of 1965, the House Armed Services Committee stated (House Report No. 549, p. 24, 89th Congress, 1st Session):

> After determination was made of the level of pay (including allowances) considered appropriate for each military grade, account was taken of . . .the amount of the Federal income tax advantage (using 1965 rates) on the basic allowances for quarters and subsistence. The importance of this step is that it would set out "in the record" the actual amounts by which military pay scales are lowered because of . . .the tax-free status of the basic allowances for quarters and subsistence.

Under the Federal Pay Comparability Act of 1970 RMC was used to determine the value of military compensation as compared to rates of compensation paid to federal civilians and private sector employees. Yet, under that act, comparability increases were made only in basic pay. With the codification of an RMC definition in 1974, military pay raises were distributed among the various elements of military compensation. This was done for several reasons. First, housing allowances were once fixed at 85 percent of the FHA median housing survey levels for comparable groups. The absence of regular increases in military housing allowances had destroyed their comparable value and diminished the value of the tax advantage used in determining the value of military pay. Second, providing increases in basic pay resulted " . . .in a corresponding inflation in items linked to basic pay, such as various bonuses, drill pay, separation pay, and particularly, retired and retainer pays," according to the second edition of Military Compensation Background Papers (July 1982 p.9).

In other words, Congress specifically acted to increase the value of RMC and reduce current and future federal outlays by increasing the "tax advantage" associated with military housing allowances.

The military compensation system is an extremely fragile program in that any changes made thereto immediately affect personnel readiness in the armed forces. It was only a few short years ago when then Army Chief of Staff General E. C. Meyers spoke of leading ". . .a hollow Army." His reference was to critical shortages of career noncommissioned officers the Army experienced as the value of military compensation declined in the mid-1970's. During the same period the Navy experienced severe petty officer shortages, resulting in one instance of delayed deployment for lack of a full crew of qualified petty officers. The Fifth Quadrennial Review of Military Compensation further defined the importance of the military compensation system and its relationship to force readiness when it recently reported:

> **The first principle underlying the basic philosophy of the Uniformed Services compensation system is that the system must be an integral part of the overall system by which Service manpower is managed. Compensation, by the very nature of its basic purpose, must support the Service's manpower policies which, in turn, support the military, strategic and operational plans of this nation. If they do not, then manpower imbalances, deteriorating unit cohesion and integrity, poor morale, and a general degradation of discipline and motivation are likely to**

> ensue. This, in turn, can frustrate the successful accomplishment of strategic and operational plans in the field, and thus negate our foreign policy objectives.

Thus NCOA believes any change in the tax structure of military pay and the subsequent decline in value of RMC will have an immediate and adverse effect on military morale and readiness. NCOA is not alone in its opinion. In a letter to Treasury Secretary Donald Regan, Defense Secretary Caspar Weinberger stated, "There is no current military compensation issue that more directly affects the career force." Last May the Army Chief of Staff Retiree Council reported on behalf of all Army retiree councils:

> Uniformed services personnel who receive tax exempt housing allowance may lose their mortgage interest deduction on their federal income tax returns if a recent IRS directive is enforced. The US Senate has passed legislation protecting the service member caught in this dilemma. The councils support this action.

Perhaps the most eloquent statement of the problem and its likely effects has been rendered by Lieutenant General Edgar A. Chavarrie, Deputy Assistant Secretary of Defense (Manpower) who stated:

> . . .This action would have a devastating financial impact on the persons directly affected. The significant loss of take-home pay which these personnel would suffer would undoubtedly lower their morale and , for many, could be the deciding factor in choosing not to remain in military service. Further, the effect of this action will extend well beyond those directly affected, ranging from those persons not now homeowners, who will perceive that homeownership has become economically infeasible, to those who will view it as a general assault on military benefits.
> We would expect an immediate adverse impact on retention. . . .estimate that the career force would be reduced by

> up to 9,000 members within five years after the limitation goes into affect, as compared to what the career force would otherwise be. The adverse retention effect of this ruling will be proportionally greater for senior NCOs and petty officers . . .since they are more likely to own homes. . .To the extent that retention is reduced it will be necessary to recruit additional entry level personnel to replace the lost careerists. In the environment which we face now of an improving economy and declining youth population, making our recruiting objectives could prove to be very difficult.
> . . .Approximately 270,000 servicemembers live in homes they own and would be adversely affected by the revenue ruling. The disallowance . . . would effectively cut their pay by an estimated 4 to 6 percent. . . .For example, a typical homeowner in grade 0-3 in San Antonio, Texas, would have a pay cut of $1213 per year. An E-7 in Washington, D. C. , would lose $1054. We estimate the total pay loss to be $320 million. . .
> Because of equity considerations and the potential impact on retention, these losses in take-home pay may need to be restored. Thus, the potential budget impact results from restoring the pay of affected personnel to the pre-disallowance level. We estimate the cost of restoring the take-home pay of those members affected to be approximately $1.1 billion. . .

Mr. Chairman, military housing allowances have existed as an integral part of military compensation since the mid-1800s. They have survived judicial and administrative tests of taxability under income tax laws of 1861, 1895, 1916, etc. Additionally, Congress has relied heavily on the tax-exempt status of military housing allowances to reduce federal outlays in military compensation. At the same time, Congress has reserved to itself the right to adjust military compensation to insure the value and purpose of such payments, a precedent that has existed since 1875 [U.S. v.Williamson (1875) 90 US 411, 23 L Ed 89]. In Williamson the court found, "It is not in the

power of executive department, or any branch of it, to reduce pay of Army officer, since regulation of compensation of officers of Army belongs to legislative department of government." Williamson withstood a second test in 1935 and in 1977 was used by the Supreme Court as the foundation for a ruling in U. S. v. Larionoff [U. S. v. Larionoff (1977) 431 US 864, 53 L Ed 2d 48, 97 S Ct 2150].

Notwithstanding existing precedent, the Internal Revenue Service appears likely to usurp Congressional authority in this matter absent any Congressional action to preempt a ruling. The IRS has already been successful in subordinating Congressional intent in the taxation of veterans benefits received under certain circumstances. In spite of provisions of law providing a blanket exemption regarding the taxation of veterans benefits [38 USC sec. 3101(a)], the IRS ruled veterans must reduce education deductions by the amount of tax free educational assistance payments received from the Veterans Administration. The ruling was upheld in Manocchio v. Commissioner, 78 TC 989 (1982). NCOA believes Congress would set a very dangerous precedent if it allows the IRS to continue this pattern of unilateral decision making on the taxation of federal compensation and benefit programs.

In summary Mr. Chairman, more than a century of precedent exists to suggest that the tax-exempt status of military housing allowances should not be changed. If a change is allowed, it will cause an imbalance in the very delicate military compensation system, in turn causing manpower shortages, readiness and morale problems, and many other problems associated with the adequacy of military pay. Ultimately, the anticipated "revenue enhancement" predicted by the IRS would result in tremendously increased outlays to sustain military force population and readiness levels. More important, it would establish a precedent by which the IRS may take license with any number of other federal programs. For example, if successful here, how long will it be before the IRS rules that medical care deductions must be reduced by the amount of tax-free disability income received.

NCOA urgently requests positive action to prevent any changes to the tax status of military housing allowances. Thank you for considering this important issue.

TESTIMONY OF DR. JAMES R. LUCK, PASTOR, FRANCONIA BAPTIST CHURCH, ON S. 2017 BEFORE THE U.S. SENATE COMMITTEE ON FINANCE, SEPTEMBER 26, 1984.

MR. CHAIRMAN AND MEMBERS OF THE SENATE COMMITTEE ON FINANCE, MY NAME IS DR. JAMES R. LUCK, PASTOR OF THE FRANCONIA BAPTIST CHURCH, ALEXANDRIA, VIRGINIA. I WANT TO EXPRESS MY APPRECIATION FOR THE HONOR AND OPPORTUNITY OF APPEARING BEFORE THIS DISTINGUISHED COMMITTEE AND OFFERING TESTIMONY ON A SUBJECT THAT SORELY NEEDS ADDRESSING AT THIS TIME. I AM REFERRING TO THE SENATE BILL 2017, WHICH NEGATES THE I.R.S. REVENUE RULING 83-3. THIS RULING DENIES MEMBERS OF THE CLERGY FROM RECEIVING A FULL TAX DEDUCTION FOR MORTGAGE INTEREST AND TAXES ON THEIR PERSONAL RESIDENCE WHEN THEY RECEIVE A TAX FREE HOUSING ALLOWANCE. IF ALLOWED TO STAND, THE I.R.S. POSITION WILL CREATE UNNECESSARY HARDSHIPS FOR MEMBERS OF THE CLERGY, THEIR CHURCHES AND CONGREGATIONS, THE NEEDY PERSONS IN THEIR COMMUNITIES, AND FOR THOSE COMMUNITY, STATE, AND GOVERNMENT AGENCIES WHICH ARE INVOLVED IN BENEVOLENT CAUSES.

UNDER THE SOCIAL SECURITY AMMENDMENTS OF 1983, THE TAX RATE FOR SELF-EMPLOYED PERSONS WILL RISE FROM THE 9.3 PERCENT OF 1983 TO 14 PERCENT FOR 1984, AND TO 15.3 PERCENT IN 1990. THE TAX CREDITS WILL HELP TEMPORARILY, BUT THIS INCREASE IN TAXES, ADDED TO THE ADDITIONAL TAXES RESULTING FROM THE NEW RULING ON THE HOUSING ALLOWANCE, WILL GREATLY REDUCE THE TAKE-HOME PAY OF THE CLERGY. AS YOU ARE AWARE, MINISTERS ARE REQUIRED TO PAY SELF-EMPLOYMENT TAXES ON THEIR SALARY AND HOUSING ALLOWANCE.

IT IS DIFFICULT ALREADY FOR ME TO MEET THE QUARTERLY TAX PAYMENT DEADLINES, AND IF I DO NOT RECEIVE A FULL TAX DEDUCTION FOR MY HOUSING ALLOWANCE, I MAY NOT BE ABLE TO OWN A HOME OR TO SEND MY THREE CHILDREN TO COLLEGE, AND IT MAY BE NECESSARY FOR ME TO MOVE TO AN AREA WITH A LOWER COST

OF LIVING. TOO MANY MINISTERS HAVE LIVED ON LOW INCOME AND IN CHURCH OWNED HOMES, AND THEY HAVE COME TO RETIREMENT WITH NO PLACE TO LIVE AND PERSONAL INCOME BELOW THE POVERTY LEVEL. I DO NOT WANT THIS TO HAPPEN TO ME OR TO OTHER MINISTERS WHO GIVE THEIR LIVES TO THE BETTERMENT OF HUMANKIND.

THE IMPACT OF THE NEW I.R.S. RULING WILL HAVE A TREMENDOUS IMPACT UPON CHURCHES OF MOST RELIGIOUS DENOMINATIONS. MANY CHURCHES ARE FINDING IT DIFFICULT AT PRESENT TO MEET THEIR BUDGET REQUIREMENTS. THE MAJORITY OF CHURCHES HAVE LESS THAN 300 RESIDENT MEMBERS, AND MANY OF THESE MEMBERS ARE CONTRIBUTING ALL THAT IS POSSIBLE. THESE CHURCHES WILL FIND IT IMPOSSIBLE TO INCREASE THEIR MINISTER'S COMPENSATION. THEY WILL FIND IT DIFFICULT TO OBTAIN AND RETAIN PASTORAL LEADERSHIP, AND MAY FIND IT NECESSARY TO CLOSE THEIR DOORS. MANY INTELLIGENT AND HIGHLY SKILLED YOUNG MEN AND WOMEN WILL LOOK FOR ANOTHER PROFESSION, AND THE LEADERSHIP AVAILABLE TO THE SMALLER CHURCHES MAY NOT BE OF THE HIGHEST QUALITY.

SOME OF THE CHURCHES WHICH WILL FIND IT NECESSARY TO CLOSE WILL BE IN STRATEGIC LOCATIONS, SUCH AS IN THE INNER CITY, WHERE THERE ARE GREAT BENEVOLENT NEEDS. MANY OF THOSE CHURCHES WHICH WILL INCREASE THE MINISTER'S COMPENSATION WILL TAKE THE ADDITIONAL MONEY FROM WHAT THEY ARE CONTRIBUTING AT PRESENT TO MISSION CAUSES IN THEIR LOCAL COMMUNITIES.

THE FRANCONIA BAPTIST CHURCH CONTRIBUTES TO ORGANIZATIONS WHICH FEED AND CLOTHE THE NEEDY, ASSIST IN DISASTER RELIEF, AND PROVIDE FOR SUCH NEEDS AS EMERGENCY HOUSING. WE SUPPORT PRISON MINISTRIES WHICH ASSIST IN REHABILITATION OF CRIMINALS, AND WE OFTEN GIVE ASSISTANCE DIRECTLY TO NEEDY INDIVIDUALS AND FAMILIES. THE CHURCH WILL NOT BE ABLE TO CONTINUE WITH THIS ASSISTANCE IF IT IS NECESSARY TO INCREASE SIGNIFICANTLY THE AMOUNT OF STAFF COMPENSATION.

IF CHURCHES FIND IT IMPOSSIBLE TO CONTINUE TO SUPPORT BENEVOLENT AGENCIES AND TO PROVIDE ASSISTANCE TO THE NEEDY IN THEIR COMMUNITIES, MANY OF THE HELPING AGENCIES WILL FIND IT IMPOSSIBLE TO CONTINUE TO OPERATE, OR THEY WILL HAVE TO REDUCE THEIR CHARITABLE ACTIONS. WHO WILL FEED AND CLOTHE THESE PEOPLE? PERSONS WILL BE ADDED TO THE WELFARE ROLLS, THE LINE FOR FOOD STAMPS WILL LENGTHEN, AND AGENCIES WHICH ARE FUNDED WITH TAX MONIES WILL REQUEST ADDITIONAL FUNDS IN ORDER TO MEET THE INCREASED DEMANDS. IT DOES NOT MAKE SENSE TO INCREASE REVENUE, WHEN THE AMOUNT COLLECTED AND MORE WILL BE SPENT TO MEET THE NEEDS CREATED BY SUCH ACTION. THE ASSISTANCE PROVIDED BY CHURCHES IS PURE WELFARE MONEY. THERE ARE NO ADMINISTRATION COSTS AND EVERY PENNY GOES DIRECTLY TO NEEDY PERSONS. IT WOULD COST MORE FOR PUBLIC AGENCIES TO PROVIDE THE SAME ASSISTANCE. IF THE NEEDS OF THE POOR AND UNDERPRIVILEGED ARE NOT MET, HUMAN SUFFERING WILL INCREASE. IN ADDITION, IT IS KNOWN THAT SUFFERING OFTEN LEADS TO CRIMINAL BEHAVIOR, AND HOW CAN WE CALCULATE THESE COSTS?

BUSINESSES AND PRIVATE INDUSTRIES HAVE BEEN URGED TO PROVIDE FOR THEIR OWN AND THOSE IN THEIR COMMUNITIES, AND MANY ARE DOING SO. CHURCHES SHOULD BE ENCOURAGED TO INCREASE THEIR BENEVOLENT MINISTRIES. THE I.R.S. REVENUE RULING 83-3 DOES JUST THE OPPOSITE. I DO NOT BELIEVE THAT THE LEADERSHIP OF THIS GREAT NATION DESIRES TO CREATE OR TO INCREASE BURDENS FOR THE NEEDY AND UNDERPRIVILEGED, THE INSTITUTIONS AND AGENCIES THAT SEEK TO ASSIST THEM, OR FOR THE TAX PAYING CITIZENS OF THIS COUNTRY.

THANK YOU FOR HEARING ME AND FOR YOUR FAIR CONSIDERATIONS OF THE MERITS OF SENATE BILL 2017. I URGE YOU TO GIVE IT YOUR STRONG AND ACTIVE SUPPORT.

I SHALL BE HAPPY TO ATTEMPT TO ANSWER ANY QUESTIONS WHICH THE COMMITTEE MIGHT HAVE.

B nai ISRael CONGReGaTION

September 26, 1984

STATEMENT
OF
RABBI MATTHEW H. SIMON
ON S. 2017

My name is Rabbi Matthew H. Simon, of Rockville, Maryland. I am the Chairman of the Joint Retirement Board of the Rabbinical Assembly, The Jewish Theological Seminary of America and the United Synagogue of America.

I serve as the Rabbi of B'nai Israel Congregation in Rockville, Maryland. Further, I am a Captain in the Chaplain Corps of the U.S. Naval Reserve so I appreciate the interrelationship of the clergy and the military in history and law.

I am grateful for the opportunity to speak on behalf of many of my fellow colleagues in the ministry, and the many in support services in religious congregations.

Ministry is a field where lay boards develop salary "packages" based on precedents and their understanding of a clergyperson's tax status. Similar to the history of military salaries, where perquisites counted as "compensation", so the laity counted as total compensation the perquisites of the clergy.

My understanding of history is that the tax benefit for parsonages was an attempt derived from English common law to equalize salaries and status between those clergy in faith and denominational groups where movement was common and often involuntary, and where homes were provided, such as manses, rectories and parsonages - and those clergy in faith groups where movement was more voluntary and where the clergy purchased their own residences.

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IRS Revenue Ruling 83-3 means that many younger clergy had salaries based on a tax deduction suddenly removed. They now cannot move as freely from congregation to congregation as has been the practice in their religious community. We can see in tax history the common understandings between the salary of the clergy and the military. The latter also has its involuntary moves, and "perks" were considered part of total compensation. One of these was a tax deduction for housing as a supplement to salary.

People enter ministry to serve, not for salary. Lay boards often structure total compensation, which is already low, based on existing tax laws. This holds down "cash salary" even more.

We are grateful for the time extension of Revenue Ruling 83-3. But we are troubled that the IRS undid by ruling what was a conscious intention of the Congress. This intention goes back to the common law of colonial America and our antecedents in Westminster.

If there is to be a change, it should be the Congress of the United States that makes the change. Further, the IRS by ruling now separates out and treats the military and the clergy differently.

If an exemption is given to a large class of Americans, with whom we share the same common tax history, we feel we are entitled to remain linked in treatment. Under any circumstance, a class of Americans serving the public, the clergy, are now made to suffer suddenly and financially by Revenue Ruling 83-3.

In summary, we support S. 2017, but at a minimum we ask for an immediate extension of time beyond 1986 before Revenue Ruling 83-3 takes effect, so the clergy can work out their financial status with their lay boards - some of which only meet annually or biennially. This extension would disregard whether a minister owned a home on January 3, 1983, since I understand the present extension does not apply to those who bought homes after that date. And we ask that the final decision be made by the elected legislators of America, not by IRS regulators.

B'nai Israel Congregation

September 26, 1984

SUMMARY OF PRINCIPAL POINTS
IN THE STATEMENT OF
RABBI MATTHEW H. SIMON

1. Ministers, like military persons, are compensated by "salary packages" in which the clergyperson's tax status is counted. A class of Americans serving the public, the clergy, are now made to suffer suddenly and financially by Revenue Ruling 83-3.
2. The tax benefit relating to parsonages and parsonage allowance is derived from English common law to equalize salaries and status between clergy in denominational groups in which movement was common and involuntary and clergy in groups that provided manses and rectories and movement was more voluntary.
3. Revenue Ruling 83-3 means that many younger clergy cannot move as freely from congregation to congregation as has been the practice in the religious community.
4. The IRS undid by ruling what was a conscious intention of the Congress.
5. The IRS now by ruling treats clergy and military differently. If exemption is given to a large class of Americans sharing the same common tax history, the clergy are entitled to remain linked in treatment.
6. We support S. 2017, but at a minimum, we ask for an extension beyond 1986 of this ruling so the clergy can work out their financial status with their lay boards. This extension would disregard whether a minister owned a home on January 3, 1983.
7. The final decision should be made by the Congress, not by the Internal Revenue Service.

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TESTIMONY BEFORE THE SUB COMMITTEE ON TAXATION AND DEBT MANAGEMENT OF THE SENATE FINANCE COMMITTEE

Presented by
The Reverend Doctor William J. Cumbie
Executive Director
Mount Vernon Baptist Association
Alexandria, Virginia

I AM WILLIAM J. CUMBIE OF 4236 WORCESTER DRIVE, FAIRFAX, VIRGINIA 22032. I SPEAK TODAY IN MY OFFICIAL ROLE AS EXECUTIVE DIRECTOR OF THE MOUNT VERNON BAPTIST ASSOCIATION. THE ASSOCIATION IS COMPOSED OF SIXTY-EIGHT OFFICIALLY CONSTITUTED SOUTHERN BAPTIST CHURCHES IN ALEXANDRIA, ARLINGTON, FAIRFAX COUNTY AND A PART OF PRINCE WILLIAM COUNTY, VIRGINIA. THESE CHURCHES MEET IN 92 CONGREGATIONS AND HAVE MORE THAN FORTY-THREE THOUSAND MEMBERS.

I HAVE SERVED IN MY PRESENT LEADERSHIP POSITION FOR ALMOST TWENTY-SEVEN YEARS. DURING THAT TIME, ONE OF MY FUNCTIONS HAS BEEN TO SERVE AS A CONSULTANT TO CHURCHES IN HOW TO MANAGE THE GIFTS WHICH GOD'S PEOPLE BRING AS WORSHIP OFFERINGS. ONE OF THE SIGNIFICANT WAYS I HAVE BEEN CALLED ON TO SERVE IS TO ASSIST CHURCHES IN ARRANGING THEIR COMPENSATION PACKAGES FOR THEIR MINISTERS SO AS TO "STRETCH" PRECIOUS DOLLARS TO THE LARGEST DEGREE. MOST OF THE CHURCHES I SERVE HAVE ELECTED TO ALLOW THEIR MINISTERS TO SECURE HOUSING FOR THEMSELVES. THESE CHURCHES DO NOT REQUIRE THEIR MINISTERS TO RENT THEIR HOUSES FROM THE CHURCH AS A CONDITION OF EMPLOYMENT BY THE CHURCH. ONLY A FEW CONTINUE THE PARSONAGE SYSTEM.

BY MAKING PROVISION FOR A TAX DEDUCTIBLE HOUSING ALLOWANCE IN

1954, THE CONGRESS REMOVED THE TAX INEQUITY BETWEEN THE HOUSING ALLOWANCE SYSTEM AND PARSONAGE SYSTEM. THE RULINGS OF THE IRS CARRIED OUT BOTH THE LETTER AND THE SPIRIT OF THE CONGRESSIONAL PROCESS BY MAKING THE HOUSING COSTS TOTALLY EXCLUDABLE, AS I BELIEVE THE CONGRESS INTENDED (I HAD SAT IN THE HEARINGS HELD ON THIS ISSUE IN 1954). WITHOUT ANY PUBLIC HEARINGS, OR KNOWN CONSULTATION WITH THE CONGRESS, THE IRS CHANGED THE LAW - THAT IS THE REAL RESULT OF IRS RULING 83-3. THE IRS THREW OUT TWENTY-EIGHT YEARS OF GOOD EXPERIENCE IN WHICH THE CLEAR INTENT OF THE CONGRESS WAS FOLLOWED, AND IN EFFECT WROTE A NEW TAX LAW IN THIS MATTER.

THERE ARE TWO FUNDAMENTAL REASONS WHY I URGE YOU TO PASS S.2017:

FIRST: THE IRS HAS SOUGHT TO SOLVE TAX INEQUITIES ON A PIECE-MEAL BASIS. THAT IS BAD PUBLIC POLICY AND IS NOT THE RESPONSILITY OF THE IRS. POLICY-MAKING THRU THE LEGISLATIVE PROCESS BELONGS TO THE CONGRESS; I URGE YOU TO TAKE BACK TO YOURSELVES THAT FUNCTION, ESPECIALLY IN THIS MATTER BEFORE YOU TODAY.

THERE ARE NUMEROUS INEQUITIES IN THE TAX CODE. IT IS SELF EVIDENT THAT THE WHOLE MATTER OF TAX ADMINISTRATION IS LOADED WITH INEXPLICABLE INEQUITIES. THERE ARE ATTEMPTS UNDERWAY IN THE CONGRESS TO ADDRESS THESE ISSUES. I URGE THE COMMITTEE TO FORWARD THIS LEGISLATION SO THAT ANY AND ALL ISSUES THAT APPEAR TO BE TAX INEQUITIES MAY BE CONSIDERED IN THE CONTEXT OF AN OVERALL REVISION OF THE TAX CODE.

SECOND: THE PRACTICAL RESULT OF IRS RULING 83.3 IS TO DIVERT SCARE OFFERING PLATE DOLLARS SO THAT FEWER OF THEM ARE AVAILABLE FOR THE HELPING MINISTRIES WHICH THE ADMINISTRATION HAS ASKED THE PRIVATE SECTOR TO PICK UP.

THE CHURCHES I WORK FOR (ON AN AVERAGE) CONTRIBUTE 15% OF THEIR GROSS RECEIPTS TO CAUSES WE DESCRIBE AS "MISSIONS AND BENEVOLENCES." THIS INCLUDES OUR WHOLE DENOMINATIONAL PROGRAM. SIGNIFICANT PORTIONS OF THESE FUNDS ARE ADDRESSED TOWARD MEETING HUMAN NEED - NEEDS WHICH ARE BEING ADDRESSED BY THE GOVERNMENT ON A LESS AND LESS BASIS AS TIME GOES BY. IT IS MY ESTIMATE THAT ON THE AVERAGE, OUR MINISTERS WILL BE REQUIRED TO PAY ABOUT $1,750 A YEAR OF ADDITIONAL INCOME TAX AS A RESULT OF THE IRS RULING 83-3. WHILE AN ARGUEMENT CAN BE RAISED THAT THE ADDITIONAL TAX IS JUSTIFIED, I DO NOT BELIEVE THAT THE PRESENT CIRCUMSTANCES JUSTIFY THAT DIVERSION OF RESOURCES TO THE GENERAL TAX COFFERS AT THE EXPENSE OF THE SPECIAL MINISTRIES ADDRESSING HUMAN NEED WHICH WILL PERFORCE BE REDUCED BY SUCH AN ACTION. MISSION AND BENEVOLENT GIVING IS ABOUT THE ONLY PLACE THAT OUR CHURCHES-ESPECIALLY OUR SMALL ONES - HAVE DISCRETION.

MOST OF THE MINISTERS IN MY CIRCLE OF KNOWLEDGE ARE ACCUSTOMED TO SACRIFICIAL LIVING; THAT IS, THEIR COMPENSATION IS LARGE ENOUGH TO ALLOW THEM TO LIVE RESPONSIBLY IN THEIR COMMUNITIES, BUT IS NEVER UP TO THE COMMUNITY "STANDARD." THIS IS ESPECIALLY TRUE IN METROPOLITAN WASHINGTON WHERE THE FEDERAL PRESENCE HAS A DEFINITE ESCALATING IMPACT ON LIVING COSTS AND SUPPORT REQUIREMENTS.

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BECAUSE I SUPERVISE DIRECT-SERVICE MISSIONARIES, WHO ARE ADDRESSING HUMAN NEED DAILY IN MY AREA, I WOULD LIKE TO SHARE WITH YOU THE FACTS OF THE IMPACT OF IRS RULING 83.3 ON ONE OF MY ASSOCIATES. THE REVEREND DAVID AN MIN PHAN IS COORDINATOR FOR MINISTRY AMONG SOUTHEAST ASIANS IN OUR AREA. HE IS A VIETNAMESE REFUGEE WHO HAS BECOME AN AMERICAN CITIZEN. ALONG WITH HIS WIFE AND FOUR OF HIS SEVEN CHILDREN, HE CAME OUT OF VIETNAM ON A BOAT RIGHT AFTER THE FALL OF SAIGON. MORE THAN FIVE YEARS LATER HIS THREE OTHER CHILDREN JOINED HIM IN THE UNITED STATES.

IN SEPTEMBER, 1982, MR. AND MRS. PHAN PURCHASED A HOME IN WHICH THEY LIVE IN SPRINGFIELD. THEIR MONTHLY PAYMENTS ON THE HOUSE ARE $777.25. THEIR INTEREST PAYMENT LAST YEAR WAS $7,187. THEIR REAL ESTATE TAXES ARE $1,186 SO THAT THEIR HOUSING EXPENSES WHICH WOULD NO LONGER BE DEDUCTIBLE UNDER IRS RULING 83.3 ARE $8,373 PER YEAR. EVEN THOUGH MR. PHAN IS AMONG THE BETTER PAID VIETNAMESE IN THE COMMUNITY, HIS COMPENSATION LEVEL IS APPROXIMATELY THAT OF A GOOD SECRETARY IN THE FEDERAL GOVERNMENT OR HERE ON THE HILL. HIS TAX REQUIREMENT UNDER IRS RULING 83.3 WOULD GO UP BY $1,675 PER YEAR OR ABOUT 9% OF HIS GROSS INCOME BEFORE ANY EXCLUSIONS, DEDUCTIONS, ETC.

IT IS MY OPINION THAT MR. PHAN'S SITUATION IS FAIRLY TYPICAL OF MANY MINISTERS ACROSS THE COUNTRY.

I BELIEVE THAT THE IRS "PICKED ON US" BECAUSE THEY THOUGHT OUR COMMITMENT TO SACRIFICE WAS SUCH THAT WE WOULD NOT PROTEST.

HOW WRONG THEY WERE! I BELIEVE THAT THE CONGRESS OUGHT TO DEAL WITH THE ISSUE OF TAX EQUITY IN THE WHOLE RATHER THAN SINGLING OUT A SMALL, BUT HIGHLY DEDICATED PART OF OUR CITIZENRY WHO HAVE EARNED THEIR WELL-DESERVED REPUTATION AS MEN AND WOMEN OF SACRIFICE WHO LIVE FRUGALLY SO THAT THE WORSHIP OFFERINGS OF THE PEOPLE WHO COME TO CHURCH CAN BE USED TO MEET HUMAN NEED OF EVERY KIND.

I URGE THE COMMITEE TO APPROVE S.2017.

RESPECTFULLY SUBMITTED,

WILLIAM J. CUMBIE

Senator PACKWOOD. Gentlemen, I have no questions. As I have indicated earlier, I hope we can act in the next week. Your case is absolutely justified. I appreciate your bringing it to us. Thank you very much for your patience in waiting this long to get on.

Mr. MONTGOMERY. Thank you.

Dr. MORGAN. Thank you, Mr. Chairman.

Reverend TREPTOW. Thank you, sir.

Senator PACKWOOD. We are adjourned.

[Whereupon, at 11:26 a.m., the hearing was concluded.]

[By direction of the chairman the following communications were made a part of the hearing record:]

All Saints Episcopal Church
P.O. Box 1948
499 N. Reagan
San Benito, Texas 78586
(512) 399-1795

THE REV. MICHAEL M. DAVIS
Rector

September 27, 1984

Mr. Robert A. Robinson, President
The Church Pension Fund
800 Second Avenue
New York, NY 10017

Dear Mr. Robinson:

At the Diocese of West Texas Clergy Retirement Workshop in Corpus Christi last week, the Reverend Canon Edward Morgan of your Staff discussed the income tax status of active and retired priests. He told us of the financial hardships many priests, rabbis and ministers are experiencing as a result of the confusion caused by the IRS's sudden denial of income tax deductions for home mortgage interest and taxes for some clergy and not for others.

I can hardly believe what has happened to me, financially, starting in 1983 when I responded to a call to the parochial ministry to serve as the rector of a small church in San Benito, Texas beginning in June 1983.

I had been serving in the Church's teaching ministry at Trinity Episcopal Church Day School in Marshall, Texas from the time of my ordination in 1966 until I received the call from All Saints' Church in 1983. My annual compensation would remain virtually unchanged at about $20,400 but monetary considerations were not important when I was making the critical decision as to how to best serve my Church. I made the right decision and am continuing to serve God's people according to His plan.

The figures in my case will be typical of many clergy whose ministry requires some degree of mobility during their careers:

	Mortgage Interest & Taxes	
	Paid	Deducted
(A) From my tax return for the year 1983:		
For 5 months at Trinity Church	$ 2916.42	$ 2916.42
For 7 months at All Saints' Church	4940.92	2672.12
	$ 7857.34	$ 5588.54

My actual income tax for 1983 amounted to $1,993.00, an increase of $398.00, or 25% over the income tax of $1,595.00 I would have paid if the IRS had not changed the law.

(B) Illustrative tax return for 1984:		
For full year at All Saints Church	$ 9,732.12	0

> Using the full year's non-deductible interest and property tax figures for 1984 but repeating other 1983 figures for comparative purposes, my 1984 income tax would amount to $3,144.00, an increase of $1,803.00, or 145% over the income tax I would have paid if the IRS had not changed the law.

I believe that the members of Congress should be made aware of the drastic impact on a typical minister of the sudden erasure by the IRS in 1983 of their official determination in 1961, confirmed by their General Counsel, that there was evidence that it was the intent of Congress that ordained ministers were not to be denied deductions for mortgage interest and taxes paid out of tax excludable parsonage allowances. What has happened to that evidence! For almost three decades hasn't there been solid congressional approval or acquiescence in that timely reading by the IRS of the intent of Congress? Why did the IRS find it necessary 30 years later to revise the intent of Congress as it had been officially determined just after the Congress enacted the parsonage allowance law in 1954?

If there is any way that the representatives of the Churches and Synagogues in this country can get our story to our representatives in Congress, surely Congress will reassert its unique responsibility to make the tax laws. If our Senators and Representatives take strong action now to re-establish this particular tax law as it existed continually for thirty years until 1983, virtually all priests rabbis, and ministers will be able to continue their ministries with complete faith in the integrity and fairness of their elected officials and with restored faith in in the agencies of government.

Sincerely,

Michael M. Davis

(The Rev.) Michael M. Davis
Rector, All Saints' Church
San Benito, Texas

cc: The Most Reverend John Maury Allin
Presiding Bishop of The Episcopal Church

The Right Reverend Scott Field Bailey
Bishop, Diocese of West Texas

The Reverend Edward L. Dohoney
President, Clergy Association
Diocese of West Texas

American Hospital Association

444 North Capitol Street N.W.
Suite 500
Washington D.C. 20001
Telephone 202.638.1100
Cable Address: Amerhosp

October 10, 1984

Mr. Roderick DeArment
Chief Counsel
Senate Committee on Finance
219 Dirksen Building
Washington, D.C. 20510

Dear Mr. DeArment

On September 26, 1984, the Senate Finance Committee's Subcommittee on Taxation and Debt Management held a hearing on Permanent Charitable Contributions Legislation, S.337, which the American Hospital Association (AHA) strongly supports. On behalf of the AHA, which represents over 6,100 member hospitals and health care institutions, as well as more than 38,000 personal members, we respectfully request that this letter be included in the hearing record .

The Economic Recovery Tax Act of 1981 included a provision that enabled taxpayers who do not itemize deductions nevertheless to claim a deduction for charitable contributions. This provision was phased in beginning in 1982 and is scheduled to become a full deduction comparable to that available to itemizers in 1986. After 1986, the provision would expire under current law. S.337 would delete this sunset provision, thus making the deduction a permanent part of the tax code.

During the early history of health and hospital care in this country, private contributions comprised a substantial portion of funds for building and operating hospitals. While other sources, including government, now provide a greater share of funds for these activities, nonprofit hospitals and health care institutions, which represent the largest portion of our health care resources, continue to rely on charitable contributions for a variety of purposes. For example, in 1980 the hospital and health field received a total of $6.49 billion in charitable contributions. The American Association of Fundraising Council estimates that this represents 13.6 percent of all philanthropy during that year by individuals in the United States.

Charitable contributions are used to replace obsolete facilities and equipment; support for health research and education programs; assist in maintaining and improving community health care through such activities as subsidization of care for indigent patients; and help to finance experimental and innovative approaches to the delivery of health care.

Clearly, activities supported by charitable contributions are beneficial to the public interest. Moreover, during times of reductions in governmental support, these funds lessen the financial burden on all levels of government. In addition, private philanthropy reflects and fosters a highly desirable attitude by individuals toward the needs of their communities. The encouragement of private giving is also consistent with the policy of the Reagan Administration to rely on increased charitable giving by individuals and corporations to finance social, educational, and health activities, particularly those that have suffered reductions in federal support.

Perhaps the most important federal policy affecting charitable giving is the deduction allowed for contributions in the individual income tax. This policy has provided an incentive for voluntary giving and has served society well. It has also been an effective mechanism for promoting other social goals whether they be in the area of improved health and hospital care or support for education, the arts, or the humanities. According to many economists, tax subsidies for charitable giving are generally a more efficient method of achieving a desired purpose that a direct government expenditure.

Charitable contributions are an important and much needed source of income for the health and hospital field as well as for other important areas that are in the public interest. The Association believes that the charitable contribution that exists for non-itemizers under current law should be made permanent as provided in S.337.

Thank you very much for your consideration.

Sincerely

Jack W. Owen

Jack W. Owen
Executive Vice President

Campbellsville College
200 College Street, West
CAMPBELLSVILLE, KENTUCKY 42718
502 • 465-8158

September 21, 1984

Mr. Roderick A. DeArment
Chief Counsel
Committee on Finance
Room SD-219
Dirksen Senate Office Building
Washington, DC 20510

Dear Sir:

Subject: The Charitable Contributions Law
Senate Bill S.337
Wednesday, September 26, 1984

I am writing in support of Senate Bill S.337.

Campbellsville College is a small, church related, liberal arts college located in central Kentucky. We depend heavily on the "grass roots" for our financial support. Last year we received gifts from 654 individuals. The vast majority of those gifts were less than $200. Most of these individuals will probably not itemize deductions on their income tax returns. Consequently, their incentive to give is based on their love and appreciation for the ministry of Campbellsville College alone. It is my belief that a further incentive based on a charitable deduction for those who do not itemize would increase the number and size of the gifts to Campbellsville College.

Further, a permanent deduction will help Campbellsville College broaden the base for charitable gifts. We could thus look to more donors other than just the wealthy for support. There are few wealthy prople among our various constituencies.

On behalf of the faculty, staff, and students of Campbellsville College, I urge a favorable report on Senate Bill S.337 and a permanent Charitable Contributions Law.

Sincerely,

Kenneth H Pope

Kenneth H. Pope, Ph.D., CFRE
Advancement Vice President

KHP:pjd

CHURCH ALLIANCE

ACTING ON BEHALF OF CHURCH PENSION PROGRAMS

STEERING COMMITTEE:
Dr. Darold H. Morgan, Chairman
Mr. Earl E. Haake
Mr. Leo J. Landes
Mr. Richard J. O'Meara
Dr. John D. Ordway
Mr. Arthur M. Ryan
Rev. Henry F. Treptow
Dr. Dean R. Wright

SECRETARY:
Mr. Gary S. Nash
511 North Akard
Dallas, Texas 75201
(214) 720-2140

MEMBERS ACTING ON BEHALF OF THE PENSION PROGRAMS OF THE FOLLOWING DENOMINATIONS:

Mr. Robert Adler
Union of American Hebrew Congregations

Mr. Harold A. Conrad
Church of God

Mr. Leland K. Crist
The Wesleyan Church

G.H. Crumley
General Conference of Seventh-day Adventists

Mr. Ray C. Dodds
Reorganized Church of Jesus Christ of Latter Day Saints

Mr. William B. Duffy, Jr.
Unitarian Universalist Association of Congregations in North America

Rev. James M. Granberry, Jr.
African Methodist Episcopal Church

Mr. Earl E. Haake
The Lutheran Church-Missouri Synod

Mr. Herman L. Hersey
National Association of Free Will Baptists

Mr. Gerald K. Hornung
United Methodist Church

Mr. James L. Hughes
Presbyterian Church in America

Mr. Mario J. Kauffman
Mennonite Churches

Mr. Leo J. Landes
United Synagogue of America

Dr. Darold H. Morgan
Southern Baptist Convention

Dr. J. Phillips Noble
Presbyterian Church (U.S.A.)

Mr. Wilfred E. Nolen
Church of the Brethren

Mr. Richard J. O'Meara
Catholic Mutual Relief Society

Dr. John D. Ordway
United Church of Christ

Rev. Lester D. Palmer
The Christian Church (Disciples of Christ)

Mr. Darrell Prichard
Churches of God General Conference

Dr. Robert A. Robinson
Episcopal Church

Mr. Arthur M. Ryan
Presbyterian Church (U.S.A.)

Rev. Henry F. Treptow
The American Lutheran Church

Mr. Garrett C. Van de Riet
Christian Reformed Church in North America

Dr. Jewett L. Walker
A.M.E. Zion Church

Dr. L. Edwin Wang
Lutheran Church in America

Dr. Dean Wessels
Church of the Nazarene

Dr. Dean R. Wright
American Baptist Churches

September 24, 1984

The Honorable Bob Packwood
Chairman, Senate Finance Subcommittee
  on Taxation and Debt Management
Senate Committee on Finance
259 Russell Senate Office Building
Washington, D. C. 20510

Dear Senator Packwood:

The Church Alliance is an organization consisting of the chief executive officers of the pension programs of the 28 church denominations listed on this letterhead. The Church Alliance supports S.2017 introduced by Senator Jesse A. Helms and similar bills such as S.2519 introduced by Senator John W. Warner and co-sponsored by many other senators.

S.2017 would ease the increased income tax burden on the home owning clergy of America caused by Rev. Rul. 83-3, 1983-1 Cum. Bull. 72, which under present law will be fully effective on January 1, 1986, and which already applies to ministers who bought their homes after January 3, 1983. This revenue ruling reverses an almost-30-year position of the Internal Revenue Service by newly interpreting Section 265(1) of the Internal Revenue Code to deny ministers itemized deductions for interest and taxes to the extent allocable to housing allowances excludible from income under Section 107(2) of the Code. The ruling unfairly singles out ministers for unique treatment, contrary to the advice of the Chief Counsel of the Internal Revenue Service (see Exhibit 5) that the ruling be applied equally to quarters and subsistence allowances of members of the Armed Services.

As later explained, Rev. Rul. 83-3 would increase the Federal income tax of a typical minister by 57 percent without Congressional action.

HISTORY OF THE ISSUE

Sections 107(1) and 265(1), IRC

Section 107(1) excludes from income in the case of a minister of the gospel the rental value of a home furnished to him as part of his compensation. This section, applying only to a minister who lives in a parsonage furnished by the church, was introduced in 1921 as Section 22 (b)(6) of the Revenue Act of 1921. This section remained unchanged until 1954, when its language was altered slightly in style but not in meaning, and became 107(1) of the 1954 Code and a companion to subsection (2) enacted in that year.

Section 107(2) excludes from the income of a minister of the gospel the rental allowance paid to him as part of his compensation, to the extent used to rent or provide a home. The section was enacted in 1954 to eliminate the discrimination then existing between the taxation of a minister who lived in a church-provided home and of a minister who received a larger taxable salary to compensate him for expenses incurred in renting or buying his own home (see Exhibit 1).

The poor salary scales of ministers in 1954 played an important role in the Congressional decision to eliminate this discrimination. Exhibit 2 is a letter by Congressman Peter F. Mack, Jr., to the Ways and Means Committee as part of the hearings on the Internal Revenue Code of 1954.

Congressman Mack had introduced a bill that was incorporated into the 1954 Code as Section 107(2). In this letter he described more vividly than the committee reports the discrimination between ministers who lived in church-provided homes and those who rented or bought their own homes. He pointed out in the letter that around 1953 the median income of ministers was $2,412, which was $256 less than the $2,668 median income for our labor force.

Section 265(1) came from the Revenue Act of 1934 and was Section 24(a)(5) of the 1939 Code. It is important to note that Section 265(1) was in the Code 20 years before Section 107(2). Section 265(1) denies a deduction for any amount otherwise allowable as a deduction which is allocable to one or more classes of income, other than interest, wholly exempt from taxes imposed by Subtitle A of the Code, relating to income taxes. The committee reports (Exhibit 3) on Section 265(1) are not particularly enlightening but indicate that the expenses Congress thought should be disallowed were those incurred in the production of such types of income as salaries received by state employees and income from leases of state school lands. At this point it may be observed that if in 1954 Congress had realized Section 265(1) would be given the interpretation the Internal Revenue Service gave this section in 1983 through Rev. Rul. 83-3, there would have been virtually no point in enacting Section 107(2).

IRS Rulings

On September 1, 1955, the IRS issued a Special Ruling that:

> "The allowance [under Section 107] has no effect on the right to take allowable deductions under the Code. Deductions for interest and taxes would therefore be allowable if itemized in the appropriate schedule on the return."

In 1962 the IRS published Rev. Rul. 62-212, 1962-2 Cum. Bull. 41, stating:

> "The amounts of interest and taxes paid by a minister of the gospel in connection with his personal residence are allowable as itemized deductions, under the provisions of sections 163 and 164 of the Internal Revenue Code of 1954, respectively, even though the minister is entitled to a rental allowance exclusion under section 107 of the Code."

General Counsel's Memorandum 31939, dated December 22, 1961 (Exhibit 4) explains the rationale for Rev. Rul. 62-212. The GCM states that "policy considerations favored the allowance of the interest and taxes deduction without offset, since there was evidence indicating that Congress intended section 107 to be liberally construed."

After almost 30 years of consistently allowing ministers' deductions for interest and taxes with the implied approval of Congress, the IRS unilaterally reversed its policy in Rev. Rul. 83-3. This ruling, citing cases that we believe are not authoritative since they do not pertain to Section 107, held that the amount of a minister's itemized deductions otherwise allowable for interest and real estate taxes must be decreased to the extent the expenses are allocable to the rental allowance received from the church. Unlike Rev. Rul. 62-212 and GCM 31939, Rev. Rul. 83-3 completely ignored the Congressional intent in enacting Section 107(2) in 1954. GCM 38948, dated August 21, 1981 (Exhibit 5) relates to Rev. Rul. 83-3.

The members of the Church Alliance were shocked that the Service gave immediate effect to Rev. Rul. 83-3. Many ministers had made long-range financial plans and major financial commitments when they purchased homes. In so doing they had acted in good faith, relying on previous IRS rulings. On May 19, 1983, Gary S. Nash, Secretary of the Church Alliance, Rabbi Joseph B. Glaser, of the Central Conference of American Rabbis, Forrest D. Montgomery, of the National Association of Evangelicals, J. Bradley Williams, Associate General Director for Personnel Relations of the Presbyterian Church (U.S.A.), and Dean M. Kelley, of the National Council of Churches, met with Treasury officials. They asked the Treasury to delay the effective date of Rev. Rul. 83-3 until January 1, 1988. Many other persons wrote the IRS to protest Rev. Rul. 83-3 and its effective date.

On May 31, 1983, the Service announced that Rev. Rul. 83-3 would not apply to a minister until January 1, 1985, if that minister owned a home before January 3, 1983, or had a contract to purchase a home before such date and subsequently owned and occupied that home.

But the Church Alliance was still dissatisfied with both the principle of Rev. Rul. 83-3 and the effective date, which did not give ministers and their churches a chance to adjust to the increased financial burden imposed by this ruling. Exhibit 6 is a letter dated September 6, 1983, from the undersigned to the Commissioner of Internal Revenue. It pointed out that Rev. Rul. 83-3 was a change in a long-standing IRS position that should only have been made through new legislation. It emphasized that the IRS had unfairly singled out ministers for unfavorable tax treatment, contrary to the advice of the Chief Counsel's Office in GCM 38948, and that no distinction should be made between ministers and members of the Armed Services having tax-exempt quarters and subsistence allowances. The letter finally asked that either Rev. Rul. 83-3 be withdrawn until the unsettled issues could be satisfactorily resolved or that it be applied no earlier than January 1, 1988. This was the earliest ministers could adjust to the heavier tax burden imposed on them by Rev. Rul. 83-3, a burden compounded by the recent increases in Social Security taxes on ministers. This delay would also give Congress time to hold hearings and to act on the various bills pending with respect to Rev. Rul. 83-3. Some other letters on Rev. Rul. 83-3 are in Exhibit 7.

It is worth pointing out that two years ago the IRS withdrew a ruling similar to Rev. Rul. 83-3. The withdrawn ruling had disallowed deductions for interest paid by commercial banks on deposits if the banks used tax-free municipal bonds as collateral to secure those deposits. Numerous senators criticized the IRS for making a major change in the tax law through a seemingly innocent interpretation of an obscure section of the Internal Revenue Code. The senators objected to the sudden turnabout in what bankers had justifiably believed to be the law. In 1981, Senator Lloyd Bentsen sponsored a bill to reverse the "major change in tax policy which should have been made only by the Congress" and to "prevent the IRS from ever issuing a similar ruling anytime in the future." The IRS subsequently withdrew its ruling concerning the banks, and no further action was taken on the bill.

Deficit Reduction Act of 1984

The Church Alliance appreciates the attention the Finance Committee gave this matter in connection with the Deficit Reduction Act of 1984 ("Act") Section 870 of the Act, as approved by the Finance Committee, extended the application date of Rev. Rul. 83-3 to January 1, 1986, for any minister who owned and occupied a home before January 3, 1983 (or had a contract to purchase a home before such date and subsequently owned and occupied such home).

When this measure reached the Senate floor, Senator Warner, joined by Senator Helms and others, sought to amend Section 870 by introducing language that would give ministers and military personnel permanent relief from Rev. Rul. 83-3, not just a deferral. The statements of Senators Warner and Helms on the Senate floor on April 11, 1984, effectively describe the need for permanent relief. These statements are attached as Exhibit 8. A compromise was reached on the Senate floor between Section 870 and the Warner-Helms proposal. The result was the adoption of Amendment No. 2945 to the Act by the entire Senate. The amendment deferred the application of Rev. Rul. 83-3 until January 1, 1986, for ministers and members of the Armed Services without any reference to whether a home was owned on January 3, 1983.

However, the provision (Section 1052) finally agreed to by the Conference Committee and enacted by P.L. 98-369 is identical to Section 870 as approved by the Finance Committee. This provision defers the application of Rev. Rul. 83-3 until January 1, 1986, for ministers who owned and occupied a home on January 3, 1983, or had a contract to purchase a home before such date and subsequently owned and occupied such home.

There is no reference in Section 1052 of the Act to members of the Armed Services, presumably because the IRS has not issued a ruling with respect to them, in spite of GCM 38948, which advised the Internal Revenue Service to make no distinction between ministers and members of the Armed Services with respect to the tax treatment of housing allowances. Unlike ministers, members of the Armed Services continue to deduct interest and taxes allocable to tax-exempt housing allowances with respect to homes, whether or not owned on January 3, 1983. This state of affairs, the Church Alliance believes, violates fundamental fairness in the application of the law and is intolerable.

STATISTICS ON MINISTERS' SALARIES

It has been recognized for years that ministers receive relatively low salaries. In fact, they are the most poorly compensated of any profession in the country. Exhibit 9 is a table showing statistics on ministers' salaries based upon a recent report by an actuarial firm specializing in the benefit plans of churches and church-related organizations. The church denominations listed in the study comprise all of the large denominations affected by Rev. Rul. 83-3. The table reveals that the weighted yearly average salary, including housing allowance and value of parsonage, of this country's full-time ministers is $20,133. According to the Census Bureau, the 1982 median income for year-round full-time male workers was $21,077. Thus, the average salary for a minister is presently below the male median income for year-round full-time male workers.

The adverse tax impact created by Rev. Rul. 83-3 on the average minister who earns $20,133 is significant. By a sampling process, we estimate that 39,145 ministers are affected by Rev. Rul. 83-3. Of this minister's average salary of $20,133, approximately $5,839 consists of paid housing allowance. Rev. Rul. 83-3 would disallow approximately 80 percent, or $4,671, of these deductions. For a married minister with two children, non-salary income of $1,000, and itemized deductions, in addition to interest and taxes, of $1,000 in charitable contributions, the minister's 1984 tax with the deductions for interest and taxes allowed, is $682. Without such deductions, the tax is $1,074, a difference of $392, or an increase in tax of 57 percent. This is a significant increase in tax for this family of four. Given a minister's limited buying power, Rev. Rul. 83-3 will almost certainly have an adverse impact on home ownership patterns of ministers.

Based on these figures, we estimate the revenue gain from Rev. Rul. 83-3 is $15.3 million, a small amount compared with the individual hardship this ruling will cause and presently causes. Moreover, the revenue gain may well be illusory since many churches will attempt to make their ministers whole by moneys that must come from additional tax deductible contributions. These moneys will be deductible at a rate higher than the typical minister's rate, and the net effect of Rev. Rul. 83-3 may be a loss to the Treasury.

CONCLUSION

The Church Alliance believes that the conditions justifying the enactment of Section 107(2) in 1954 still exist today. The application of Section 265(1) by Rev. Rul. 83-3 to Section 107(2) significantly diminishes the tax benefit of Section 107(2) except for ministers who rent homes or do not itemize. As seen, the 57-percent tax increase to a typical minister will be significant in terms of his ability to pay. This increase comes on top of a 28-percent increase in Social Security self-employment taxes in 1984. Unless a church decides to reimburse the minister, 100 percent of this tax falls on the minister. Thus, church funds will be diverted from other church purposes to become Government tax revenues. For the minister earning $20,133, Social Security taxes have increased $393 in 1984 and will rise in later years. These two increases, coupled with historically poor salaries, will make it very difficult for a minister and his family to live as they did before the increases in taxes. Please note in particular one letter in Exhibit 7 from a certified public accountant who prepares a large number of clergy returns, in which he fears that those ministers now renting, generally the younger ministers, in the future will be unable to purchase their own homes because of Rev. Rul. 83-3.

It is important to note that the application of Section 265(1) to Section 107(2) does not relate to the prevention of double deductions. On the contrary, we have an exclusion from income (Section 107(2)) on one hand and deductions for interest and taxes (Sections 163 and 164) on the other.

The Church Alliance appreciates the efforts of the Finance Committee to postpone the application of Rev. Rul. 83-3. The deferral in the Deficit Reduction Act of 1984, however, benefits only those who owned homes on January 3, 1983, which was the date Rev. Rul. 83-3 was published. We are not clear on the absolute necessity of restricting the postponement of Rev. Rul. 83-3 in this fashion.[1] It is beyond reason to believe that on January 3, 1983, all ministers became immediately aware of this reversal of an almost-30-year IRS position and were thus adequately warned that they would purchase new homes at their peril. Moreover, it is not as though ministers always have a choice of whether to buy a new home. We have found that ministers of many of our denominations move from one job to another on an average of three to five years, to serve where needed by their church. We have so testified before the Subcommittee on Private Pension Plans and Employee Fringe Benefits of the Committee on Finance on December 4, 1979. Those ministers who after January 3, 1983, bought homes necessitated by a job-related move are faced with the full impact of Rev. Rul. 83-3. We are concerned that the effective date provision will dampen the traditional mobility of our ministers. In any event, the current effective date does not provide adequate time for ministers to comply.

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[1] The January 3, 1983, date has produced harsh results. One in particular is discussed in IRS Private Letter Ruling 8402049, which concerned a minister whose home, in September, 1982, was destroyed by fire. On January 19, 1983, he contracted to buy a new home. The IRS ruled that Rev. Rul. 83-3 applied to him.

The Church Alliance would support legislation that with respect to any mortgage interest or real property tax costs, the application of Section 265(1) to such costs shall be determined without regard to Rev. Rul. 83-3 and also without regard to any other regulation, ruling, or decision reaching the same result or a result similar to the result set forth in such revenue ruling. Such legislation would merely reaffirm the almost-30-year history of the deductibility of ministers' interest and taxes. It would also alleviate the financial burdens on ministers and maintain the status quo with respect to ministers' home ownership patterns and job mobility in the exercise of their ministry.

In the absence of such legislation, the Church Alliance believes there should be parity between ministers of the gospel and members of the Armed Services with respect to the deductions for interest and taxes. If the principles of Rev. Rul. 83-3 are adopted by Congress, they should be uniformly applied. The Church Alliance opposes the discriminatory application of Rev. Rul. 83-3 to ministers while allowing members of the Armed Services and certain other Government employees to continue to receive the favorable tax treatment denied to ministers by Rev. Rul. 83-3. We would like to stress our belief that these tax provisions should be applied in a manner that is fundamentally fair and not discriminatory.

Respectfully,

Darold H. Morgan
Chairman, Steering Committee

Enclosures

Exhibit 1

Excerpts from Pages 16 and 186 of S. Rep. No. 1622, 83d Cong., 2d Sess. (1954)

E. *Rental Value of Parsonage (sec. 107)*

(*1*) *House changes accepted by committee*

Under present law, the rental value of a home furnished a minister of the gospel as a part of his salary is not included in his gross income. This is unfair to those ministers who are not furnished a parsonage, but who receive larger salaries (which are taxable) to compensate them for expenses they incur in supplying their own home.

Both the House and your committee has removed the discrimination in existing law by providing that the present exclusion is to apply to rental allowances paid to ministers to the extent used by them to rent or provide a home.

(*2*) *Changes made by committee*

None.

Section 107. Rental value of parsonages

This section is identical with section 107 of the bill as passed by the House. The first paragraph is derived from section 22 (b) (6) of the 1939 Code. No substantive change is made.

The second paragraph provides that the allowance paid to a minister of the gospel as part of his compensation (to the extent used by him to rent or provide a home) is not a part of his gross income. Thus, a minister who receives a rental allowance in lieu of the use of a home will be able to exclude this allowance if it is used to rent or provide a home.

The word "home" as used in both paragraphs is not intended to change the law under section 22 (b) (6) of the code of 1939 which used the term "dwelling house and appurtenances thereof." The term "home" includes the case where furnishings are also included. It does not cover cases where a minister, in addition to the home, rents a farm or business property, except to the extent that the total rental paid can be allocated to the home itself and the necessary appurtenances thereto, such as a garage.

Exhibit 2

ENERAL REVENUE REVISION

HEARINGS

BEFORE THE

COMMITTEE ON WAYS AND MEANS
HOUSE OF REPRESENTATIVES

EIGHTY-THIRD CONGRESS
FIRST SESSION
ON
FORTY TOPICS PERTAINING TO THE GENERAL REVISION
OF THE INTERNAL REVENUE CODE

PART 3
(Topics 31–39)

AUGUST 6, 10, 11, 12, 13, AND 14, 1953

Printed for the use of the Committee on Ways and Means

UNITED STATES
GOVERNMENT PRINTING OFFICE
37746 WASHINGTON : 1953

While it is true that the commercial banks involved in the plan (4) mergers were subject to Federal income taxes, it is also true that the losses which brought about the entire dissipation of the funds advanced by the RFC prior to the mergers, as well as all of the funds advanced by the common stockholders, resulted in no tax benefit to the banks. This is true for several reasons. Firstly, the losses sustained exceeded the banks' taxable income and, in fact, the net losses were greatly in excess of the amounts advanced by the RFC. Secondly, although commercial banks were subject to Federal income tax, exemptions granted to certain classes of income, received mainly by banks and other financial institutions, created a situation where very few commercial banks were liable for any Federal income tax, even without the deduction of the extraordinary losses and shrinkages which occurred during the 1930's.

The failure to allow a deduction for amounts used to retire the obligations, which these banks were forced to guarantee to the RFC, frustrates the purpose for the mergers consummated between January 1, 1938, and December 31, 1940. By requiring the payment of Federal income taxes, in an unknown amount, upon the income required to fulfill the guaranty, a burden would be imposed upon these banks from which it is doubtful that they could relieve themselves in the foreseeable future. This is readily apparent since the affected institutions have only been able to reduce such guaranteed obligations to the RFC from $28,194,000 to $25,523,000 in a period of 13 or 14 years.

It can thus be seen that the taxation of income which is required to be repaid to the RFC or to any other instrumentality of the United States creates, for the commercial banks affected, a situation as onerous and as highly inequitable as that recognized by Congress in the enactment of section 313 (g) of the Revenue Act of 1951 and section 818 of the Revenue Act of 1938.

Since Congress has previously seen fit to allow deductions to certain commercial banks and to mutual savings banks for similar, though not identical, deductions in order to insure the maintenance of a sound financial structure in these organizations, it is only right and just that the Internal Revenue Code should be amended to allow deductions to those banks involved in forced mergers between January 1, 1938, and December 31, 1940, for amounts paid in retirement of shares of preferred stock issued to the RFC in exchange for previously issued shares of preferred stock which had become worthless at the date of the exchange.

STATEMENT OF INDEPENDENT NATURAL GAS ASSOCIATION OF AMERICA, WASHINGTON 6, D. C.

AMORTIZATION OF CAPITAL STOCK EXPENSE

The Internal Revenue Code provides for amortization of expenses incurred on issuance of debt securities. Similar treatment is not allowed with respect to stock issuance expenses. Such variance in the treatment of issuance expenses between equity securities and debts securities is not equitable.

Debt securities have a fixed maturity date over which amortization deductions may be measured. In most instances capital stock will not have such a maturity date. However, most equity capital issuances are for the purposes of plant expansion. The measurement period related to the stock issuance expense incurred in the average life of the plant.

We recommend that a new subsection be added to section 23 of the Internal Revenue Code which would permit corporations to amortize capital stock issuance expense over a period consistent with the average life of the property, plant, and equipment.

McKENNAN, RIDDIFORD & SEVENICH,
Minneapolis 2, Minn., June 9, 1953.

COMMITTEE ON WAYS AND MEANS,
House of Representatives, Washington, D. C.

GENTLEMEN: The attached statement deals with a proposal to grant equitable relief to ministers of the gospel. It is submitted under item 33 of topics to be considered by your committee. This submission is made in lieu of personal appearance.

As provided in the procedure data, 50 copies are furnished herewith. Your consideration is earnestly solicited.

Respectfully,

RAY G. MCKENNAN.

JUNE 9, 1953.

To the COMMITTEE ON WAYS AND MEANS,
House of Representatives, Washington, D. C.:

The following is submitted for consideration, relating to proposed changes in the Internal Revenue Code as set out in procedure data, and relating to item 33, the determination of taxable income inclusions and exclusions.

It is proposed that section 22 (*b*) (6) of the Internal Revenue Code be amended to read as follows:

"(*b*) The following items shall not be included in gross income and shall be exempt from taxation under this chapter:

"'(6) MINISTERS.—The rental value of a dwelling house and appurtenances there furnished to a minister of the gospel as part of his compensation; *or that part of the monetary compensation of a minister of the gospel which is paid expressly in lieu of furnishing him a dwelling house, to the extent that such part does not exceed the rental value of the dwelling house, and appurtenances thereof, occupied by such minister;*'"

This suggested change is made in the interests of equity between those ministers of rich churches, which churches can and do furnish dwelling houses to their ministers, the value of which is tax free; and those ministers of poorer churches, which churches cannot furnish such dwelling houses, with the result that the minister of a poorer church must pay a tax on the total value of his compensation, while the minister of a rich church has the benefit of that value tax free.

The proposed code change follows the decision of James R. MacColl III, in the District Court (N. D. Ill., 91 Fed. Supp. 721), decided in 1950, wherein it was held that an allowance to a minister in lieu of furnishing living quarters was not considered to be taxable income. The Commissioner of Internal Revenue has not acquiesced, and those ministers entitled to relief must litigate in order to get relief.

The proposed change would create an equitable condition for ministers similarly situated, and would probably eliminate court action by those who would seek relief.

The foregoing is submitted for your consideration.

Respectfully,

RAY G. MCKENNAN.

STATEMENT SUBMITTED BY THE NATIONAL ASSOCIATION OF WOOL MANUFACTURERS, NEW YORK CITY, IN RE TOPIC 33, THE DETERMINATION OF TAXABLE INCOME INCLUSIONS AND EXCLUSIONS

The association recommends amendment of the code to accept taxpayers consistent policy of handling major repairs, tools, jigs, dies, fixtures, and short-lived capital assets. This action is but a corollary of the recommendation on depreciation.

STATEMENT OF HON. PETER F. MACK, JR., ON H. R. 4275, CONCERNING THE TAXABILITY OF A CASH ALLOWANCE PAID TO CLERGYMEN IN LIEU OF FURNISHING THEM A DWELLING

On March 26 of this year, I introduced H. R. 4275 to permit clergymen to exclude from gross income that amount paid to them by a church specifically in lieu of furnishing them a dwelling house.

Under our present tax laws, section 22 (B), persons who are furnished a dwelling house in connection with their occupation must include within gross income for tax purposes the rental value of such dwelling. Subsection (6) exempts clergymen therefrom. In most cases such dwelling house is the parsonage, manse or parish house. Yet where the church does not furnish its clergy a dwelling house because it does not own one or because of other circumstances, the sum of money paid by the church to the clergyman specifically in lieu of furnishing him a dwelling must be included in gross income and taxed in the usual graduated manner.

If enacted, my proposal would remove this inequity and permit all clergymen to exclude from gross income that part of a specific rental allowance up to the rental value of the dwelling house actually occupied.

This situation was called to my attention by an official of a State Baptist organization. Upon looking into the matter, I realized that the present tax laws are discriminatory among our clergy. I was rather surprised that my bill has attracted to much attention, but I am pleased to say that among all the correspondence and communications that I have received, there has not been one in opposition.

Realizing the thoroughness of this committee, I have ascertained the following statistics that demonstrate the necessity of amending this section to allow the same benefits for all of the clergymen, whether furnished a dwelling or required to rent one:

In 1940 there were 133,449 clergymen. The annual median salary was approximately $1,100. Of the clergymen 80.9 percent were receiving less than $2,000 per year and 90.9 percent less than $3,000. Only 1.1 percent were receiving more than $5,000 annually.

The most recent figures obtained in advance of formal printing disclose the number of clergymen has risen to 167,471. The average median income has risen along with the cost of living to $2,412. Of our clergymen 55 percent are receiving less than $2,500 per year. This is some $256 less than the $2,668 annual median income for our labor force. It is well to keep in mind that many of these clergymen support families like the rest of us, and that many of these clergymen still receive low incomes based on the 1940 cost of living but must pay 1953 rents for a dwelling house.

Although most people are aware of it today as they have never been, it is pertinent to quote from a letter I have received on this bill: "As a church executive * * *, I have long been aware of the inequity and discrimination resulting from the present situation. As I know * * * probably half of our ministers are not provided with parsonages. Therefore, they rent homes up to perhaps $100 per month. They may receive a salary of $1,200 per year increase over a minister in a comparable parish to compensate for their rental obligation. But, as we well know, the $1,200 is not deductible and they actually pay income tax on this additional $1,200 (at graduated rates). I think I know the situation fairly well and that this illustration describes the problem faced by at least half of our 7,000 ministers * * *"

"I do not believe in advocating special favors for the ministry. However, in this situation, it would seem that the legislation ought to provide either that every minister occupying a parsonage rent free should be taxed on the rental value of that parsonage, or that the legislation recommended in H. R. 4275 should be enacted."

"I repeat, the present practice is definitely discriminatory."

The one official public statement of which I have heard is a resolution that was adopted by the General Assembly of the Presbyterian Church of the United States (Southern) in June of this year which said: "That we inform the National Council of Churches of Christ in the United States of America that we are in sympathy with the sentiment expressed in House bill 4275, United States Congress."

Personal communications to me from top officials in many denominations have indicated to me that, while no official action has been taken in an assembly, that this proposal would be desired by all.

One clergyman who is an assistant to the pastor in a parish in the South told me in his letter favoring H. R. 4275 that he owned his own home when he was called to this parish. He said that the church rented its usual home for the assistant and gave that rent to him to compensate for his using his own home. Recently the Bureau of Internal Revenue has informed him that he must pay tax on that rental allowance, even though the pastor is living in a larger, more expensive home, tax-free. This clergyman has two sons in the process of becoming clergymen and the extra tax he is now bound to pay on his cash rental allowance is discriminatory.

From Indianapolis came a letter stating approval of this measure and pointing out that three-fourths of 500 ministers are not furnished parsonages.

From Iowa comes the statement: "I do not feel the ministry should have any special favors but it seems to me that this particular piece of legislation ought to equalize the matter between those ministers who have cash allowances for their rent and those ministers who are provided parsonages by the church."

From Indiana comes the opinion that "It would seem that in all fairness to all concerned, there ought to be some uniformity about this practice. It would seem to me that the passage of H. R. 4275 would be a satisfactory way to handle the situation." Another from the same State points up the inequity and discrimination against ministers who are not provided with a parsonage, but instead receive a cash allowance in lieu thereof which is taxable.

From Pennsylvania a pastor points out that there are situations where congregations find it more to their advantage to pay rent rather than to own a parsonage.

Another letter from Indiana is from the executive secretary of a State religious organization who says, "I travel this Nation a great deal and am in constant conference with ministers, and I find that the present rules of the income tax make for real discrimination against a large section of our clergy. My hope is that this bill will receive favorable consideration."

Another clergyman argues thusly, "I speak as one of those ordained ministers who does not have the privilege of living in a parsonage. Those of us who find it necessary to pay for our own housing out of the regular salary which we receive often find that this item becomes quite a financial factor in view of the graduated income tax scales."

Still another states, "Passing this bill will bridge the inequity which now exists between ministers' income taxes. The present practice of income taxes seems discriminatory."

This is a sample of the opinion that has come to my attention. I had hoped that this bill could have been considered this year. I realize, however, that your committee has had a most busy schedule and it is difficult to act on all meritorious legislation. I do believe that we should exert every effort to have this bill enacted into law as it is quite obvious a serious injustice is being done to those ministers who must provide their own home.

Mr. Chairman, I hope that your committee will favorably report this bill at a very early date. Certainly, in these times when we are being threatened by a godless and antireligious world movement we should correct this discrimination against certain ministers of the gospel who are carrying on such a courageous fight against this foe. Certainly this is not too much to do for these people who are caring for our spiritual welfare.

STATEMENT OF AMERICAN FEDERATION OF LABOR RE TOPIC 33, DETERMINATION OF TAXABLE INCOME INCLUSIONS AND EXCLUSIONS

The American Federation of Labor would oppose amendments to present laws that are not justified by strong consideration of equity and would operate so as not to contribute to the possibility of tax avoidance by any group of taxpayers.

STATEMENT OF THE AMERICAN LIFE CONVENTION, CHICAGO, ILL., AND LIFE INSURANCE ASSOCIATION OF AMERICA, NEW YORK, N. Y., RE TOPIC 33

Mr. Chairman and members of the committee, the following suggestions for revision of the Internal Revenue Code are submitted on behalf of the life-insurance business and are based on studies of joint committees of the American Life Convention and the Life Insurance Association of America. The composition of these associations was described at the time of our appearance before the committee on topic 14.

INCOME TAX TREATMENT OF TRANSFERS OF LIFE-INSURANCE POLICIES FOR VALUABLE CONSIDERATION (SEC. 22 (b) (2) (A) (I. R. C.))

Under present law, the general exemption from income tax accorded to the proceeds of a life-insurance policy payable by reason of death does not apply where such a policy has been transferred for a valuable consideration. In such cases, only the actual value of the consideration paid plus premiums and other sums subsequently paid by the transferee is exempt from income taxation. Death benefit proceeds over and above these exempt amounts must be included in the gross income of the transferee.

For many years it has been common practice to utilize life insurance in connection with partnership agreements, and with stock purchase plans in closely held corporations. Under these agreements the lives of partners or stockholders are insured, subject to an understanding that upon death the insurance proceeds will be accepted in full settlement of the interest of the deceased partner or stockholder. The insurance proceeds usually are paid to the dependents of a deceased partner and utilized for their support and maintenance. This makes it unnecessary for them to look to the business for their support. The transfer-for-

Exhibit 3

Excerpt from Page 23 of H. Rep. No. 704, 73d Cong., 2d Sess. (1934)

Section 24 (a) (5). Disallowance of deductions attributable to tax-exempt income: This paragraph has been added to the bill to eliminate as deductions from gross income expenses allocable to the production of income wholly exempt from the income tax. Under the present law interest on State securities, salaries received by State employees, and income from leases of State school lands are exempt from Federal income tax, but expenses incurred in the production of such income are allowed as deductions from gross income.

Excerpt from Pages 26 and 27 of S. Rep. No. 558, 73d Cong., 2d Sess. (1934)

Section 24 (a) (5). Disallowance of deductions attributable to tax-exempt income

The House bill disallows amounts otherwise allowable as deductions which are allocable to one or more classes of tax-exempt income even though the income fails to materialize or is received in an amount less than the expenditures made or incurred. For instance, under the present law, salaries received by State employees, income from leases of State school lands, and the interest on State and some classes of Federal securities are exempt from the income tax. It is contended that under the existing law all expenses incurred in the production of such income are allowable as deductions. The House bill specifically disallows expenses of this character. While your committee is in general accord with the House provision, it is not believed that this disallowance should be made to apply to expenditures incurred in earning tax-exempt interest. To do so might seriously interfere with the sale of Federal and State securities, which would be unfortunate during the present emergency. Accordingly, your committee recommends that the disallowance be applied to all classes of tax-exempt income except interest. Thus, a bank or other financial institution will not be denied a deduction for expenses incurred in earning tax-exempt interest.

Exhibit 4

265
101
163
164
117
107(2)
117(a)
162

CC:I:A-616368, A-632506
M:JLM

DEC 22 1961

See G. C. M. 31939 or
[illegible] a part

In re: [redacted]

Educational Expenses - Veterans Benefits

HAROLD T. SWARTZ
Assistant Commissioner (Technical)

Attention: Director, Tax Rulings Division

Reference is made to your memorandums (T:3:DI-23H) both dated November 6, 1961 transmitting for our concurrence or comment two proposed revenue rulings based upon rulings issued to: (1) [redacted] July 6, 1955, and (2) the District Director, [redacted] April 6, 1961.

The first ruling deals with the question of whether a minister may separately deduct interest and taxes paid on his home even though he has received tax-exempt compensation specifically designated as a rental allowance to pay for the expenses of his home. The second ruling deals with the question of whether a veteran may deduct otherwise deductible educational expenses even though he has received from the Veterans Administration a tax-exempt education and subsistence allowance. Both rulings raise the question of the possible application of the so-called double deduction or double tax benefit rule.

In G.C.M. 31939, dated March 16, 1961 we agreed, for the reasons stated therein, to concur in your recommendation that the double tax benefit rule not be applied in these cases and that the taxpayers in question be permitted to deduct all of their otherwise deductible expenses without offset or proration as might be the case if the double tax benefit rule were found to be applicable. In Mr. Heiling's memorandum of March 15, 1961 to Mr. Swartz he expressed agreement with Mr. Littleton's recommendation that the offset should not be made. In addition, he expressed the view that on the merits he doubted whether section 265 actually required the offsetting of a minister's tax exempt housing allowance against interest and taxes. He further stated that if, any part of the parsonage allowance is to be offset against interest and taxes, it should be offset against only an

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This document is not to be relied upon or otherwise cited as precedent by taxpayers.

allocable portion of the interest and taxes. You now recommend publication of the minister and veteran rulings in full text form. For the reasons set forth below, we recommend that these rulings be published in digest form rather than full text form.

(1) As to the minister ruling, we are not completely satisfied that this case should be regarded as a broad precedent in the double deduction or double tax benefit area. We would prefer to limit the case to its facts and have it regarded as simply an appropriate interpretation of section 107 (rental value of parsonages). As you know there was great disagreement in both of our offices as to whether or not section 265 (expenses relating to tax-exempt income) was applicable in the minister case. Moreover, when the case was considered at the conference of August 16, 1960 in Mr. Littleton's office, it was generally agreed that regardless of the legal merits of the case it would be extremely difficult for the Service to reverse, at that late date, the favorable ruling that was given to the ministers in 1955. Furthermore, at the August 16, 1960 conference it was recognized that policy considerations favored the allowance of the interest and taxes deduction without offset, since there was evidence indicating that Congress intended section 107 to be liberally construed.

In O.C.M. 31939 we stated that in view of these considerations and also in view of the fact that our legal position was not free from doubt there was a proper basis to warrant the exercise of administrative discretion so as to permit ministers to deduct interest and taxes without reduction by way of offset or proration. Because of the fact that our final conclusion not to reverse our 1955 ruling in the ministers' case was based, in part, upon policy considerations we believe it would be undesirable to publish the ruling in a form that would treat the case as a precedent in the section 265 area. Instead, we would recommend that the case be coded not under section 265, but under section 107 (pertaining to ministers) and sections 163 and 164 (pertaining to interest and taxes).

(2) The minister ruling, if it is published as an interpretation of section 265, may become a dangerous precedent in other areas, particularly the section 117 scholarship and fellowship area. It should be noted that in order for a minister's housing allowance to be tax-exempt under section 107(2) it must be specifically designated as such, and must be spent for the designated purpose. This requirement is identical in substance to the requirement in section 117(a)(2) with respect to expense allowances received in connection with a scholarship or fellowship grant.

Section 107(2), dealing with ministers, states, in part:

> "* * * gross income does not include * * * the rental allowance paid to him as part of his compensation, to the extent used to rent or provide a home."

Section 117(a)(2) states in part:

> "* * * gross income does not include - * * * any amount received to cover expenses for - (A) travel, (B) research, (C) clerical help, or (D) equipment, which are incident to such a scholarship or to a fellowship grant, but only to the extent that the amount is so expended by the recipient." (Underscoring supplied.)

The Service has not yet taken a position on the possible application of section 265 in the scholarship - fellowship area, but there is reason to believe that the Service would wish to apply section 265 in order to prevent a taxpayer from: (a) excluding under section 117 (a)(2) amounts specifically designated to cover fellowship expenses and, at the same time, (b) deducting these very same items as business expenses under section 162.

(3) It should be noted that our 1955 ruling has already been widely circulated among the ministers, so there is no pressing need to inform ministers that they are permitted to deduct interest and taxes despite the fact that they receive a tax-free rental allowance. [redacted] circulated the ruling and it is set forth in detail in the standard tax services. See, for example, CCH Vol. 1, ¶ 1103 wherein it is stated:

> "Q. Is the amount of the exclusion affected if a minister takes a deduction for interest, taxes, depreciation, and repairs and maintenance?
>
> A. The allowance has no effect on the right to take allowable deductions under the Code. Deductions for interest and taxes would therefore be allowable if itemized in the appropriate schedule on the return. Deductions for depreciation and repairs would not be allowable since they are not incurred in connection with business property and, consequently, would represent personal expenditures. (Special Ruling, Sept. 1, 1955)."

(4) As to the veterans ruling, we believe that because of factual differences (principally the fact that the veteran's allowance is tax-exempt regardless of whether or not he spends it for the intended purpose) this ruling is on firmer legal grounds than the minister ruling. However, because of the possible danger of misunderstanding and misapplication of the ruling to other areas, particularly the section 117 scholarship area, we recommend that this ruling also be published in digest form rather than in full text form.

It is noted that the veteran ruling arose out of an inquiry of the District Director in [redacted] as to the meaning of question 11 on Form 2519 dealing with expenses for education. There is no indication in the administrative file that the veteran's expense question is a pressing one. The passage of time since World War II and the Korean War would appear to make the question a relatively insignificant one from the standpoint of importance and broad applicability. In any event, question 11, dealing with educational benefits received from the Veterans Administration is about to be deleted from Form 2519. If publication is at all necessary in this case it would appear that a digest ruling, calling attention to the deletion of question 11 on Form 2519, would suffice. As in the minister case, we would recommend that this case be coded not under section 265, but under the appropriate deduction section.

We have informally discussed the matter of publishing these rulings in digest form with representatives of the Bulletin Branch and the Tax Rulings Division. If, after considering this memorandum, you would like to discuss the matter further, we will be glad to do so.

The administrative files are returned herewith.

(Signed) Crane C. Hauser
JFD

CRANE C. HAUSER
Chief Counsel
Internal Revenue Service

Enclosures:
Adm. files

This [illegible]
[illegible]
[illegible] has precedent

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CC:I:JDM
A-616368
A-632506

G.C.M. 31939

MAR 16 1961

In re: [redacted]
and
Educational Expenses - Veterans Benefits

RECEIVED IN
DIGEST SECTION
MAR 24 1961
CHIEF COUNSEL
INTERNAL REVENUE SERVICE

HAROLD T. SWARTZ
Assistant Commissioner (Technical)

Attention: Director, Tax Rulings Division

This is in reply to your memoranda of November 14, 1960 (T:R:I-GDS-1 and T:R:I-VSW-3) requesting reconsideration of these cases in accordance with the recommendations made in a conference held in Mr. Littleton's office on August 16, 1960.

At this conference, which was attended by representatives of the Commissioner's office and this office, it was pointed out that although there might be a good technical argument for adopting the strict holding that ministers may not separately deduct interest and taxes and at the same time use these same expenses in computing their parsonage allowance exclusion under section 107(2) of the Code, the legal merits of the case is not entirely free from doubt and it would be desirable for policy reasons to apply section 107 liberally without requiring the ministers to offset their section 107 tax advantage by reducing their interest and taxes deductions.

With respect to the veterans case it was pointed out that because of the fact that the veteran does not actually have to spend any money on education in order to receive the tax exempt education and subsistence allowance from the Veterans Administration, the connection between the otherwise deductible expenses and the tax exempt allowance is less direct than it is in the ministers case. For this reason it was agreed that if the Service should reverse itself and permit the ministers to deduct interest and taxes in full without regard to the rental allowance exclusion, we should also permit the veterans to deduct their otherwise deductible educational expenses without regard to the tax exempt allowances received from the Veterans Administration.

We have reconsidered the above cases in accordance with the conference recommendations and it is our conclusion that in view of the fact that the interest and taxes question has generated sufficient controversy to indicate that the merits of the question is not free from doubt, and in view of the further fact that the ministers received a favorable ruling on this question back in 1955 so that a reversal of that ruling would no doubt be extremely upsetting to the parties concerned, there is a proper basis to warrant an exercise of administrative discretion in reaching the conclusion that the ministers interest and taxes may be separately deducted without reference to the ministers parsonage exclusion allowance under section 107 of the Code.

With respect to the veterans educational expenses, upon reconsideration it is our conclusion that because of the fact that the amounts received from the Veterans Administration are not specifically earmarked to be used solely for education, but may instead be used for subsistence and other personal expenditures, the relationship between the educational expense deduction and the tax exempt allowance is not sufficiently direct to require the application of the "double deduction" rule or to require an apportionment of the expenses between taxable income and tax exempt income under the provisions of the regulations issued under section 265 of the Code.

In view of the foregoing we withdraw our objections to the position you propose to take in a technical advice memorandum addressed to the District Director in [redacted] with respect to veterans educational expenses. G.C.M. 31671 dated June 14, 1960, is hereby revoked.

With respect to the question of a ministers right to separately deduct interest and taxes without reference to his parsonage allowance exclusion under section 107, we believe the case can best be disposed of administratively for the policy reasons suggested in the conference held on August 14, 1960. Accordingly, G.C.M. 28043 dated March 25, 1958, insofar as it relates to the "double deduction" question, is hereby withdrawn. Inasmuch as the position recommended by this office in the March 25, 1958, memorandum has received the concurrence of the Treasury Department (see Mr. Lindsay's memorandum to

Mr. Littleton dated September 30, 1958), you may wish to coordinate this matter with the Treasury Department in the event that you propose to publish a ruling based on the interest and taxes question in the minister case.

The administrative files in both cases are returned herewith.

(Signed) H. P. Herzog
HTR

H. P. HERTZOG
Acting Chief Counsel
Internal Revenue Service

Enclosure:
Adm. files

JDMcCANN:HME
2/28/61

A-632506

Educational Expenses - Veterans Benefits

District Director
[redacted]

31939

PART I

SECTION 265.—EXPENSES AND INTEREST RELATING TO TAX EXEMPT INCOME

26 CFR 1.265: Expenses relating to tax-exempt income.
(Also section 162; 1.162-5.)

Rev. Rul.

Expenses for education, paid or incurred by veterans, which are properly deductible for Federal income tax purposes are not required to be reduced by nontaxable payments received during the taxable year as educational benefits from the Veterans' Administration.

Advice has been requested whether expenses for education which are properly deductible are required to be reduced by nontaxable payments received as educational benefits from the Veterans' Administration.

~~Sections 1501 to 1510 of chapter 31, 38 U.S.C. Part III, provide with respect to World War II or Korean Conflict Veterans for "vocational rehabilitation" for the purpose of restoring employability to the extent consistent with the degree of disablement, lost by virtue of a handicap due to a service-connected disability.~~

Out
USW

Sections 1601 to 1669 of chapter 33, Title 38, United States Code, Part III, provide for the creation establishment of a veterans' education and training program for the purpose of providing vocational readjustment and restoring lost educational opportunities to those service men and women whose educational or vocational ambitions have been interrupted or impeded by reason of active duty during the Korean Conflict, and The Program also has for the purpose of aiding such persons in attaining the educational and training status which they might normally have aspired to and obtained had they not served their country in that conflict.

This document is not to be relied upon or otherwise cited as precedent by taxpayers.

~~Sections 1701 to 1768 of chapter 35 contain the provisions for educational assistance for war orphans which are applicable to children of persons who died of service-connected disability arising out of active military, naval, or air service.~~

Omit
rsw

The Veterans' Benefits Act of 1957, 38 U.S.C. 3101, provides, in part, that payments made to, or on account of, a beneficiary under any law administered by the Veterans' Administration shall be exempt from taxation. This includes amounts paid to veterans for education, vocational rehabilitation and training or subsistence.

Section 162 of the Internal Revenue Code of 1954 provides that there shall be allowed as a deduction all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business.

Section 1.162-5 of the Income Tax Regulations provides, in part, as follows:

> "(a) Expenditures made by a taxpayer for his education are deductible if they are for education * * * undertaken primarily for the purpose of:
>
> (1) Maintaining or improving skills required by the taxpayer in his employment or other trade or business, or
>
> (2) Meeting the express requirements of a taxpayer's employer, or the requirements of applicable law or regulations, imposed as a condition to the retention by the taxpayer of his salary, status or employment."

Section 265 of the Code relates to the nondeductibility of expenses "allocable" to exempt income. Section 1.265-1(a)(1) of the Income Tax Regulations provides that no amount shall be allowed as a deduction under the provisions of the Code for an expense or amount which is otherwise allowable as a deduction and which is allocable to a class or classes of exempt income other than a class or classes of exempt interest income.

In view of the fact that the amounts received from the Veterans' Administration are not specifically earmarked to be used solely for education but may instead be used for subsistence and other personal expenditures, the relationship between the educational expense deduction and the tax-exempt allowance is not sufficiently direct to require an apportionment of the expenses between taxable income and tax-exempt income under the above-cited provisions of the regulations and section 265 of the Code.

Accordingly, it is held that expenses for education, paid or incurred by veterans, which are properly deductible for Federal income tax purposes, are not required to be reduced by nontaxable payments received during the taxable year as educational benefits from the Veterans' Administration.

KSHill:kaw:ec

10/17/61

PART I

SECTION 162.--TRADE OR BUSINESS EXPENSE

26 CFR 1.162-5: Expenses for
education.

Deductibility of expenses of education paid from benefits received from the Veterans Administration by certain members of the Armed Forces.

Exhibit 5

trade date. Because payment was received in a subsequent taxable year, the transaction is an installment sale within the meaning of section 453(b).

The taxpayer elected out of the installment method, however, and therefore, as required under section 15a.453-1 (d)(2) of the temporary regulations, must treat as an amount realized in the year of sale the fair market value of the installment obligation.

HOLDING

Because the taxpayer elected out of the installment method, the gain realized from the sale of the stock is includible in the taxpayer's gross income for the taxable year 1981. If, on the other hand, the taxpayer had made no election, the gain would be includible in the taxpayer's gross income for the taxable year 1982.

EFFECT ON OTHER REVENUE RULINGS

Rev. Rul. 72-381, 1972-2 C.B. 233, which holds under similar circumstances that gain realized on the sale of stock is to be reported in the year payment is received is obsolete.

[¶11135] GCM 38948, August 21, 1981.

Internal Control No.: CC:I-377-78;
I-117-81
Brl:RPCunningham

Uniform Issue List Nos.: 0265.00-00
0265.01-00
0162.12-00
0107.00-00

[Code Secs. 325, 162 and 107]

Deductions: Expenses and interest relating to tax-exempt income: Veterans and students educational expenses: Minister's rental allowance.—Veterans and other students may not deduct educational expenses, and ministers may not deduct interest and taxes paid on a personal residence, to the extent the amounts expended are allocable to tax-exempt income. Back reference: Rev. Rul. 83-3, reviewed in this document, appears at 1983 CCH STANDARD FEDERAL TAX REPORTS ¶6324.

Reconsideration of Rev. Ruls. 62-212 and 62-213;
Reconsideration of Rev. Rul. 55-572

GERALD G. PORTNEY
Assistant Commissioner (Technical)

Attention:
Director, Individual Tax Division

In a memorandum dated February 16, 1981, the Director, Individual Tax Division (T:I) forwarded a proposed revenue ruling (Control No. 7808070705) for our concurrence or comment. In a subsequent memorandum dated March 16, 1981, the Director, Individual Tax Division requested our expeditious consideration of the above-named case pursuant to the case being designated as a "Fast Track" ruling in a meeting held on October 8, 1980. Furthermore, in a memorandum dated April 23, 1981, the Director, Individual Tax Division forwarded another proposed revenue ruling (Control No. 8011176951) for our formal consideration in connection with our consideration of the above proposed revenue ruling. For purposes of clarity in this memorandum, the first proposed revenue ruling (Control No. 7808070705) will be referred to as ruling I and the subsequent proposed revenue ruling (Control No. 8011176951) will be referred to as ruling II. We will herein propose to consolidate the two rulings by adding the facts presented in ruling II as Situation 2 in the framework of ruling I.

ISSUES

1. Whether a veteran is entitled to a deduction under I.R.C. § 162 for educational expenses when the veteran has received nontaxable amounts from the Veterans' Administration to pay for tuition, fees, books, and other expenses connected with further education.

2. Whether a member of the uniformed services of the United States may deduct expenses for interest and real property taxes on the member's personal residence when the amounts expended are allocable to a tax exempt quarters allowance.

3. Whether a minister of the gospel who receives a nontaxable rental allowance under section 107, is entitled to a deduction for interest and taxes paid with respect to the minister's principal residence.

4. Whether a student may deduct educational expenses under section 162 if the amounts expended are allocable to a scholarship that is excluded from gross income under section 117.

CONCLUSION

We agree with the conclusions reached in both proposed revenue ruling I and II regarding the application of section 265(1) to all four situations. Under section 265(1) the taxpayers in all four situations will not be allowed a deduction for expenses incurred which are allocable to the receipt of tax free income. We disagree, however, on the exact method of allocating the tax free income among expenses incurred under Treas. Reg. § 1.265-1(c). In particular, we believe that the Veterans' Administration assistance payment in Situation 1 should be allocated between subsistence and other direct educational costs, and should not be allocated solely to the direct educational costs.

FACTS

Situation 1. - During a taxable year, an unmarried veteran with no dependents, who is an attorney employed by a law firm, received five monthly payments totalling $780 from the Veterans' Administration pursuant to 38 U.S.C. § 1651 *et seq*., which provides for education assistance allowances. The purpose of the allowance is to meet, in part, the expenses of a veteran's subsistence, tuition, fees, supplies, books, equipment, and other educational costs. 38 U.S.C. § 1681(a) (1979). These payments are exempt from taxation under 38 U.S.C. § 3101(a) (1979). The taxpayer incurred expenses for tuition, fees, books, and other expenses in connection with three courses of advanced law education taken at a local university. The employer required the attorney to take the three courses as a condition of continued employment. During the year, the veteran incurred and paid expenses of $1,054 for the education. Education expenses for courses required by the employer as a condition of continued employment generally are deductible as ordinary and necessary business expenses under the provisions of section 162, provided the taxpayer elects to itemize deductions.

Situation 2. -Basic allowances for subsistence and quarters for members of the uniformed services of the United States are provided for by 37 U.S.C. §§ 402 and 403 (1981). The basic allowance for subsistence is payable to all officers at a specified amount per month and to enlisted persons, when authorized, at a specified amount per day. The basic allowance for quarters payable to members who are not furnished quarters in kind varies in amount according to the member's grade or rank and whether the member does or does not have dependents. The basic allowances for subsistence and quarters are excludable from gross income. A taxpayer who was a member officer at grade O-5 without dependents would receive, pursuant to 37 U.S.C. § 1009 (1981), a quarters allowance of $354 per month (approximately $4,250 for the year) and receive subsistence of $82.58 per month (approximately $1,000 for the year). The taxpayer incurred the following expenses totaling $8,000 to provide a home: principal ($750), interest ($6,000), insurance ($250), and real estate taxes ($1,000).

Situation 3. - During the taxable year, a minister of the gospel who is employed as pastor of a church received $19,000 as compensation from the church and a rental and utility allowance of $6,300. The rental and utility allowance is excludable from the gross income of the minister under section 107, to the extent used to rent or provide a home.

During the year, the minister used the rental and utility allowance, together with other funds, to make monthly payments for the residence in which the minster lived. Those payments totaled $6,300 and consisted of principal ($500), insurance ($400), real estate taxes ($1,400), and interest ($4,000). Utility costs amounted to $2,100. The minister incurred no other expenses directly related to providing a home during the taxable year. Interest and real property taxes paid are generally deductible expenses under the provisions of section 163 and 164, respectively, provided the taxpayer elects to itemize deductions.

Situation 4. - Same as in Situation 1, except the taxpayer is not a veteran and the $780 qualifies as an amount received as a scholarship excludable from gross income under section 117.

ANALYSIS

Section 265(1) provides that no deduction shall be allowed for any amount otherwise allowable as a deduction which is allocable to one or more classes of income other than interest wholly exempt from the taxes imposed by subtitle A.

Treas. Reg. § 1.265-1(c) provides that expenses and amounts otherwise allowable which are directly allocable to any class or classes of exempt income shall be allocated thereto; and expenses and amounts directly allocable to any class or classes of nonexempt income shall be allocated thereto. If an expense or an amount allowable is indirectly allocable to both a class of nonexempt income and a class of exempt income, a reasonable proportion thereof determined in the light of all the facts and circumstances in each case shall be allocated to each.

The basic question presented by the proposed revenue rulings is whether the various expenses which were incurred are nondeductible by reason of section 265(1) since the taxpayer in each situation received the exempt funds to cover, at least in part, the expenses he incurred. For purposes of the proposed revenue rulings and this memorandum it is assumed that the income received in each situation is tax exempt under either section 107, 117, 37 U.S.C. §§ 402 and 403 (1981), or 38 U.S.C. § 3101(a) (1979). It is further assumed that the expenses incurred by the taxpayer would be otherwise deductible under section 162, 163 or 164. Therefore, our analysis will focus upon the application of section 265(1) and the proper allocation of expenses to be made under Treas. Reg. § 1.265-1(c).

Proposed revenue ruling I holds that in Situations 1 and 4 (shown herein), the amount of itemized deductions for tuition, books and other expenses connected with further education must be decreased to the extent the expense is allocable to the amounts received for such expenses from the Veterans' Administration or as a scholarship, as the case may be. Ruling I additionally holds that in the facts of Situation 3, the amounts of the itemized deductions otherwise allowable for the interest and real estate taxes must be decreased to the extent the expenses are allocable to the rental allowance received from the church. Proposed revenue ruling II (treated herein as Situation 2) holds that the amount of the itemized deductions otherwise allowable for interest and real estate taxes must be decreased to the extent the expenses are allocable to the members' nontaxable basic quarters allowance. We agree with the holdings for each situation, however, we do not necessarily believe the allocation of expenses in each situation is appropriate.

The expenses that are incurred by the taxpayer in Situations 1, 2, and 3 are not being matched directly with the tax exempt funds on a dollar for dollar basis. If the taxpayer was being compensated with tax exempt funds for his exact expenses as they were incurred, it appears a reimbursement theory would apply and require that any deduction otherwise allowable with respect to the expense be decreased to the extent the expense is allocable to the reimbursement. *See for example Burnett v. Commissioner*, 356 F.2d 755 (5th Cir. 1956), *cert. denied*, 385 U.S. 832 (1966). Furthermore, in Rev. Rul. 80-173, 1980-27 I.R.B. 8, the Service held that the reimbursement theory applied only to the payments made to pilots under 38 U.S.C. § 1677 (1979) and did not apply to the subsistence and education allowance payments paid to veterans under 38 U.S.C. § 1681 (1979). With respect to ministers, although the rental allowance excludable under section 107 must be used to rent or provide a home, the rental allowance does not need to be used for interest or taxes in order to be either received by the minister of the gospel or excluded from gross income. Therefore, we do not see the direct relationship necessary to apply the reimbursement theory. Rather, the amounts which the taxpayer seeks to deduct as expenses are sufficiently related to the receipt of tax free income that the expenses may be viewed as allocable to the tax exempt income for purposes of section 265(1).

With respect to situation 4, it is possible for the reimbursement theory to be applicable to a situation involving the receipt of a tuition payment. We have altered the facts in our revised proposed revenue ruling, however, to bring situation 4 into agreement with the other situations and within the coverage of section 265(1).

Once subject to section 265(1) only those expenses allocable to the tax exempt income are disallowed as deductions. Treas. Reg. § 1.265-1(c) sets forth an allocation process covering expenses which are either directly or indirectly allocable to tax exempt income. We agree with the proposed revenue ruling's use of Treas. Reg. § 1.265-1(c) for allocation purposes but we believe it may have been applied inconsistently in proposed revenue ruling I. In Situation 1 of proposed revenue ruling I a formula is established which allocates the total expenditures for educational expenses to the amount of tax exempt income received. In Situation 2 of proposed revenue ruling I, nondeductible expenses are also allocated to the tax exempt income.

The Veterans' Administration payments in Situation 1 are made pursuant to 38 U.S.C. § 1681 (1979) and although designated as educational assistance the payments expressly provide for the veteran's subsistence as well as tuition, books, and other educational costs. Since the assistance payment is at least partially for subsistence expenses, which are nondeductible personal expenses of the veteran, it would seem the educational cost of $1,054 is not the only expense allocable to the $780 of tax free income. Thus, we agree with the formula presented in Situation 1 of proposed revenue ruling I but we believe the denominator which represents the total of all expenditures to which the reimbursement is applicable would theoretically have to include the veteran's subsistence expenses.

Difficulties arise if we try to attach a figure, for allocation purposes, to the amount the veteran spent on subsistence. For "indirectly allocable" expenses Treas. Reg. § 1.265-1(c) provides that a reasonable proportion of such expenses, determined in the light of all the facts and circumstances of each case, should be allocated to the exempt and nonexempt income. On the other hand, the $780 tax free assistance from the Veterans' Administration could be allocated between the veteran's nondeductible subsistence expenses and his other deductible educational expenses. One logical way to determine how much of what the veteran spent on subsistence, and should be allocated to the tax free income, is to determine what portion of the assistance payment was intended for subsistence and what portion was intended to cover the other educational costs. An examination of the statutory development of the educational assistance allowance under 38 U.S.C. § 1681 (1979), as well as the legislative history behind the various public laws providing for veteran's benefits, may be helpful in determining the proper allocation.

Although Congress has not specifically stated what portion of the educational assistance allowance provided for in 38 U.S.C. § 1681 is attributable to subsistence and what portion is attributable to educational costs, our examination of the legislative history provides some insight into the intent of Congress in establishing an educational assistance allowance. It is clear that some portion of the allowance is attributable to subsistence and some portion is attributable to educational costs. In 1944 a veteran could receive $500 per year for educational costs and up to $450 ($675 if dependents) for a subsistence allowance. These amounts are approximately equal. In 1966 the Senate noted that due to the high cost of educational the post-Korean veteran would pay a much greater proportion of his education allowance for tuition than was the case with a similarly circumstanced Korean veteran enrolled in school in 1952. The Congress was made aware of a Library of Congress study stating that a post-Korean veteran could be expected to pay over 50 percent of his education allowance for tuition as contrasted with 28 percent for an identical amount paid to a Korean veteran in 1952. S. Rep. No. 269, 39th Cong., 1st Sess. 17 (1965). Subsequent to 1966, there seems to be a Congressional awareness of rising educational costs at a rate sometimes exceeding the rise in the cost of living. It is arguable that since 1952 there is a tone throughout the legislative history of the educational assistance allowance that Congress sought to provide an equal amount for educational costs as for living costs. There exists no evidence that Congress intended to provide more for subsistence than for education.

We therefore submit that the most reasonable conclusion that may be drawn from the legislative history of the educational assistance allowance provided for in 38 U.S.C. § 1681 (1979) is that Congress intended that one-half of the allowance is attributable to subsistence and one-half is attributable to educational costs. In reaching this conclusion we have relied on the existence of a Congressional awareness of rising educational (tuition) costs, the assumption that Congress in 1966 was moved by the Library of Congress study that over 50 percent of the educational assistance allowance was going toward tuition, the impression in the legislative history that subsistence and education were nearly co-equal factors in the allowance, and the separate but generally equal treatment of educational costs and subsistence allowance present in 1944.

Since we have concluded that the Veterans' Administration allowance may be viewed as one-half for subsistence and one-half for direct educational costs we believe the proposed revenue ruling should reflect this. One way to demonstrate this allocation is to treat the veteran as receiving a $780 reimbursement that would be initially allocated one-half to the non-deductible subsistence expenses and one-half to the deductible educational expenses. The result of this would be to only have $390 of the $780 reimbursement allocable to the $1,054 of educational expenses which will in turn increase the amount of section 162 deduction allowed.

There is one other situation in proposed revenue ruling I where the distinction between direct and indirect expenses is unclear. The minister in Situation 3 was provided both a rental allowance of $4,800 and a utility allowance of $1,500. Proposed revenue ruling I combines these two allowances and treats them in the formula as entirely indirect expenses. It would seem, in accordance with Treas. Reg. § 1.265-1(c), that the allowance for utilities is specific and direct and should therefore be treated as a direct expense. It would then follow that $4,800 rental allowance would be treated as for indirect expenses and the formula in the proposed revenue ruling would be applied accordingly. For purposes of simplicity, however, we have combined the rental and utility allowances in the revised proposed revenue ruling to constitute one $6,300 rental and utility allowance which may be treated as an indirect expense.

One overriding consideration in determining the proposed allocations in the proposed revenue ruling is that the method of allocating indirect expenses which is presented, i.e., the proportion which the tax free income received bears to the total expenses incurred to which the payment relates, is not a mandatory method of allocation. Rev. Rul. 59-32, 1959-1 C.B. 245, held that the portion of any administration expenses of an estate or trust attributable to the earning of tax exempt income, which is not deductible for Federal income tax purposes, is allowable as a deduction for Federal estate tax purposes. The ruling additionally concluded that the maximum amount deductible from gross income is limited by virtue of section 265(1) to that portion of such expenses which is attributable to includible gross income. In the case of Mallinckrodt v. Commissioner, 2 T.C. 1128, acq., 1944-1 C.B. 18, the court held that in the absence of any evidence indicating a more reasonable method of allocation, that the expenditures are to be allocated to taxable income and nontaxable income of such years in the proportion that each bears to the total of taxable and nontaxable income for such years. Although the Mallinckrodt case found it reasonable to prorate expenses on the basis of total income, the Service in Rev. Rul. 63-27, 1963-1 C.B. 57, recognized the method of allocation set forth in both the court's decision and Rev. Rul. 59-32, but concluded that the method of allocation was not mandatory. Rev. Rul. 63-27 set out to clarify the Service's position on allocation under Treas. Reg. § 1.265-1(c) and pointed out that the method set forth in Rev. Rul. 59-32 was merely an example method and that since it was not mandatory, another reasonable method would be acceptable under the language of the regulations.

The difficulty we see with the allocation formula presented in proposed revenue ruling I is that there is no indication that another reasonable method would be accepted. We believe the revised proposed revenue ruling should reflect that although the illustrated method will be accepted if the taxpayer decides to utilize it, the taxpayer may choose another reasonable method of allocation under the facts and circumstances, and fit within the allocation requirement of Treas. Reg. § 1.265-1(c).

Regarding proposed revenue ruling II (shown herein as Situation 2), we believe it fits squarely within the treatment and conclusion reached concerning the portion of the veteran's payment in Situation 1 which is allocable to education. We do not believe there is a conflict with the position taken in proposed revenue ruling II and Rev. Rul. 55-572, 1955-2 C.B. 45, considered by this office in G.C.M. 28769, *****, A-468453, A-473633 (March 31, 1955). Since there was no basis for travel expenses incurred in Rev. Rul. 55-572 to be allocated to the tax exempt basic allowance for quarters and subsistence, we agree there is no viable authority to reduce the deductible travel expenses by the tax free allowance received. We believe, however, that section 265(1) may be appropriately applied to Situation 2 to require the taxpayer to decrease his itemized deductions otherwise allowable for interest and real estate taxes to the extent the expenses are allocable to the member's nontaxable basic quarters allowance.

We have added dollar amounts to the subsistence and quarters allowance received by the taxpayer and the expenses incurred by the taxpayer in Situation 2. The member will receive $1,000 of subsistence and $4,250 of quarters allowance. Similar to the treatment of the veteran the payment directly allocable to nondeductible subsistence will not be considered, and only the $4,250 received will serve as the basis for determining the amount of deductible interest and real estate taxes in the same manner as the minister's deductions in Situation 3 are determined.

Our conclusion in this case conflicts with G.C.M. 31939, ***** and ***** A-616368 and A-632506 (March 16, 1961), (underlying Rev. Ruls. 62-212 and 62-213), and consequently it is revoked. Because certain conclusions reached in G.C.M. 35161, ***** I-5072 (December 12, 1972), and G.C.M. 35169, ***** I-4654 (December 15, 1972), were based on Rev. Ruls. 62-212 and 62-213, those two memoranda are modified by deleting that portion of the analysis dealing with Rev. Ruls. 62-212 and 62-213 and modifying the analysis to make section 265(1) applicable. The conclusion reached in G.C.M. 34548, ***** I-890 (July 1, 1971), is reaffirmed. Although the conclusion of G.C.M. 34506, *Assistance Payment Under Section 235 and 236 of the National Housing Act*, I-3733 (May 26, 1971), was not followed (*see* G.C.M. 35111, *Assistance Payments Under Section 235 and 236 of the National Housing Act*, I-3733 (November 13, 1972); Rev. Rul. 75-271, 1975-2 C.B. 23; Treas. Reg. § 1.163-1(d)), the result and part of the analysis is consistent with this memorandum and to that extent it is reaffirmed.

In summary, we agree with the ultimate conclusions in all three situations of proposed revenue ruling I but we have made some changes to reflect our position on the allocation issue. In addition, we have added the situation from proposed revenue ruling II into the framework of proposed revenue ruling I, as Situation 2 and we agree with its conclusion. Attached is a revised proposed revenue ruling for your consideration, which combines the situations from both proposed revenue ruling I and II.

KENNETH W. GIDEON
Chief Counsel

By: DONALD J. DREES, JR.
Acting Assistant Director
Interpretative Division

Part 1

Section 265.--Expenses and Interest Relating to Tax-Exempt Income

26 CFR 1.265-1: Expenses relating to tax-exempt income. (Also Sections 107, 117, 162, 163, 164, 7805; 1.107-1, 1.117-1, 1.162-1, 1.163-1, 1.164-1, 301.7805-1.)

Rev. Rul.

ISSUE

(1) May a veteran deduct educational expenses if the amounts expended are allocable to veterans benefits that are exempt from taxation?

(2) May a member of the uniformed services of the United States deduct expenses for interest and real property taxes on the member's personal residence if the amounts expended are allocable to a tax exempt quarters allowance?

(3) May a minister deduct interest and taxes paid on a personal residence if the amounts expended are allocable to a rental allowance excluded from gross income pursuant to section 107 of the Internal Revenue Code?

(4) May a student deduct education expenses if the amounts expended are allocable to a scholarship that is excluded from gross income under section 117 of the Code?

FACTS

Situation 1. During a taxable year, an unmarried veteran with no dependents, who is an attorney employed by a law firm, received five monthly payments totalling $780 from the Veterans' Administration pursuant to 38 U.S.C. section 1651 et seq., which provides for education assistance allowances. The purpose of the allowance is to meet, in part, the expenses of a veteran's subsistence, tuition, fees, supplies, books, equipment, and other educational costs. 38 U.S.C. section 1681(a) (1979). Based upon the legislative history behind 38 U.S.C. section 1681 (1979), it is determined that Congress intended one-half of the allowance to be attributable to subsistence and one-half to be attributable to educational costs. See S. Rep. No. 269, 89th Cong., 1st Sess. 17 (1965). These payments are exempt from taxation under 38 U.S.C. section 3101(a) (1979). The taxpayer incurred expenses for tuition, fees, books, and other expenses in connection with three courses of advanced law education taken at a local university. The employer required the attorney to take the three courses as a condition of continued employment.

During the year, the veteran incurred and paid expenses of $1,054 for the education.

Education expenses for courses required by the employer as a condition of continued employment generally are deductible as ordinary and necessary business expenses under the provisions of section 162 of the Code, provided the taxpayer elects to itemize deductions.

Situation 2. Basic allowances for subsistence and quarters for members of the uniformed services of the United States are provided for by 37 U.S.C. sections 402 and 403 (1981). The basic allowance for subsistence is payable to all officers at a specified amount per month and to enlisted persons, when authorized, at a specified amount per day. The basic allowance for quarters payable to members who are not furnished quarters in kind varies in amount according to the member's grade or rank and whether the member does or does not have dependents. The basic allowances for subsistence and quarters are excludable from gross income.

The taxpayer who was a member officer at grade 0-5 without dependents would receive, pursuant to 37 U.S.C. § 1009 (1981), a quarters allowance of $354 per month (approximately $4,250 for the year) and receive subsistence of $82.58 per month (approximately $1,000 for the year). The taxpayer incurred the following expenses totaling $8,000 to provide a home: principal ($750), interest (6,000), insurance ($250), and real estate taxes ($1,000).

Situation 3. During the taxable year, a minister of a gospel who is employed as pastor of a church received $19,000 as compensation from the church and a combined rental and utility allowance of $6,300. The rental and utility allowance is excludable from the gross income of the minister under section 107 of the Code, to the extent used to rent or provide a home.

During the year, the minister used the rental and utility allowance, together with other funds, to make monthly payments for the residence in which the minister lived. Those payments totaled $8,400 and consisted of principal ($500), insurance ($400), real estate taxes ($1,400), interest ($4,000), and utility costs ($2,100). The minister incurred no other expenses directly related to providing a home during the taxable year. Interest and real property taxes paid are generally deductible expenses under the provisions of section 163 and 164 of the Code, respectively, provided the taxpayer elects to itemize deductions.

Situation 4. Same as in Situation 1, except the taxpayer is not a veteran and the $780 qualified as an amount received a scholarship excludable from gross income under Section 117 of the Code.

LAW AND ANALYSIS

Section 162 of the Code allows as a deduction all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business.

Section 163 of the Code allows as a deduction all interest paid or accrued within the taxable year on indebtedness.

Section 164 of the Code allows, except as otherwise provided, as a deduction for the taxable year within which paid or accrued, state and local real property taxes.

Section 265(1) of the Code provides that no deduction shall be allowed for any amount otherwise allowable as a deduction that is allocable to one or more classes of income other than interest (whether or not any amount of income of that class or classes is received or accrued) wholly exempt from the taxes imposed by subtitle A of the Internal Revenue Code, or any amount otherwise allowable under section 212 that is allocable to interest (whether or not any amount of such interest is received or accrued) wholly exempt from the taxes imposed by subtitle A.

Section 1.265-1(c) of the Income Tax Regulations provides that expenses and amounts otherwise allowable that are directly allocable to any class or classes of exempt income shall be allocated thereto; and expenses and amounts directly allocable to any class or classes of nonexempt income shall be allocated thereto. If an expense or amount otherwise allowable is indirectly allocable to both a class of nonexempt income and a class of exempt income, a reasonable proportion thereof determined in the light of all the facts and circumstances in each case shall be allocated to each.

The purpose of section 265 of the Code is to prevent a double tax benefit. In United States v. Skelly Oil Co., 394 U.S. 678 (1969), 1969-1 C.B3 204, the Supreme Court of the United States said that the Internal Revenue Code should not be interpreted to allow the practical equivaleance of double deductions absent clear declaration of intent by Congress. Section 265(1) applies to otherwise deductible expenses incurred for the purpose of earning or otherwise producing tax exempt income. It also applies where tax exempt income is earmarked for a specific purpose and deductions are incurred in carrying out that purpose. In such event, it is proper to conclude that some or all of the deductions are allocable to the tax exempt income. See Heffelfinger v. Commissioner, 5 T.C. 985 (1945), which held that Canadian income taxes on income exempt from U.S. tax are not deductible in computing U.S. taxable income; Banks v. Commissioner, 17 T.C. 1386 (1952), which held that certain educational expenses paid by the Veterans' Administration that were exempt from income tax, were not deductible; Christian v. United States, 201 F. Supp. 155 (E.D. La.1962), where a school teacher was denied deductions for expenses incurred for a literary research trip to England because the expenses were allocable to a tax exempt gift and fellowship grant; and Rev. Rul. 74-140, 1974-1 C.B. 50, which concludes that the portion of the state income taxes paid by a taxpayer that is allocable to the cost-of-living allowance, a class of income wholly exempt under Section 912 of the Code, is nondeductible under section 265.

In all four situations, the taxpayer has incurred expenses for the purposes for which the tax exempt income was received. Permitting a full deduction in each situation would lead to a double benefit not allowed under section 265 of the Code.

HOLDINGS

In Situation 1 and Situation 4, the amount of the itemized deductions for tuition, books and other expenses connected with further education must be decreased to the extent the expense is allocable to the amounts received for such expenses from the Veterans' Administration or as a scholarship, as the case may be.

In Situation 2, the amount of the itemized deductions otherwise allowable for interest and real estate taxes must be decreased to the extent the expenses are allocable to the member's nontaxable basic quarters allowances.

In Situation 3, the amounts of the itemized deductions otherwise allowable for the interest and real estate taxes must be decreased to the extent the expenses are allocable to the rental allowance received from the church.

The following demonstrates one reasonable method of allocation under section 1.265-1(c) of the regulations that will be accepted by the I.R.S.:

In Situation 1, the $1,054 of educational expenses that otherwise qualify for deduction is decreased by one-half of $780 (or $390), computed by multiplying $1,054 (the amount of the expense that is otherwise deductible) by a fraction, the numerator of which is $390 (the amount of the reimbursement allocable to deductible educational costs) and the denominator of which is $1,054 (the total of all expenditures to which the reimbursement is applicable):

$$\$1,0544 \text{ x } \frac{\$390}{\$1,054} = \$390.$$

Therefore, the itemized deduction for educational expenses allowable under section 162 is $664 ($1,054 - $390).

In Situation 2, the otherwise deductible interest and real estate taxes will be decreased by the proportionate amount that the nontaxable quarters allowance bears to the total expenses incurred to provide a home. The allocation will be the same as the minister in Situation 3 (See below).

In Situation 3, the $4,000 of interest otherwise deductible under section 163 of the Code is decreased by $3,000, computed by multiplying $4,000 (the amount of the interest otherwise deductible) by a fraction, the numerator of which is $6,300 (the combined rental and utility allowance) and the denominator of which is $8,400 (the total of all expenditures to which the rental and utility allowance is applicable), or $4,000 x $\frac{\$6,300}{\$8,400}$ = $3,000.
Therefore, the deduction for interest allowable under section 163 in Situation 3 is $1,000 ($4,000 - $3,000).

In Situation 3, the $1,400 of real estate taxes otherwise deductible under section 164 of the Code is decreased by $1,050 computed by multiplying $1,400 (the amount of the real estate taxes otherwise deductible) by a fraction, the numerator of which is $6,300 and the denominator of which is $8,400 (as indicated in the preceding paragraph), or $1,400 x $\frac{\$6,300}{\$8,400}$ = $1,050.
Therefore, the itemized deduction for real estate taxes allowable under section 164 in Situation 3 is $350 ($1,400 - $1,050).

In Situation 4, the result is the same as in Situation 1.

PROSPECTIVE APPLICATION

Under the authority contained in section 7805(b) of the Code, this revenue ruling will not be applied to education expenses incurred by veterans or taxpayers under the circumstances described in Situation 1 or Situation 4, or to interest and real estate taxes paid by members of the uniformed services and ministers under the circumstances described in Situations 2 and 3, before January 1, 1981.

EFFECT ON OTHER REVENUE RULINGS

Situation 1 and 3, of this revenue ruling are similar to the situations in Rev. Rul. 62-213, 1962-2 C.B. 59; and Rev. Rul. 62-212, 1962-2 C.B. 41.

Rev. Rul. 62-212 and Rev. Rul. 62-213 are revoked.

[The next page is 3501.]

CHURCH ALLIANCE

ACTING ON BEHALF OF CHURCH PENSION PROGRAMS

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MEMBERS ACTING ON BEHALF OF THE PENSION PROGRAMS OF THE FOLLOWING DENOMINATIONS

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Mr. William B. Duffy, Jr.
Unitarian Universalist Association of Congregations in North America
Rev. James M. Granberry, Jr.
African Methodist Episcopal Church
Mr. Earl E. Haake
The Lutheran Church-Missouri Synod
Mr. Herman L. Hersey
National Association of Free Will Baptists
Mr. Gerald K. Hornung
United Methodist Church
Mr. James L. Hughes
Presbyterian Church in America
Mr. Lee J. Landes
United Synagogue of America
Dr. Darold H. Morgan
Southern Baptist Convention
Dr. J. Phillips Noble
Presbyterian Church in the United States
Mr. Wilfred E. Nolen
Church of the Brethren
Mr. Richard J. O'Meara
Catholic Mutual Relief Society
Dr. John D. Ordway
United Church of Christ
Mr. Darrell Prichard
Churches of God General Conference
Dr. Robert A. Robinson
Episcopal Church
Mr. Arthur M. Ryan
United Presbyterian Church in the U.S.A.
Dr. William Martin Smith
The Christian Church (Disciples of Christ)
Mr. E. M. Stiles
General Conference of Seventh-day Adventists
Rev. Henry F. Treptow
The American Lutheran Church
Mr. Garrett C. Van de Riet
Christian Reformed Church in North America
Dr. Jewett L. Walker
A.M.E. Zion Church
Dr. L. Edwin Wang
Lutheran Church in America
Dr. Dean Wessels
Church of the Nazarene
Dr. Dean R. Wright
American Baptist Churches

Exhibit 6

September 6, 1983

Roscoe L. Egger
Commissioner
Internal Revenue Service
1111 Constitution Avenue
Washington, D.C. 20224

Re: Revenue Ruling 83-3
Announcement 83-100

Dear Sir:

Earlier this year, the Internal Revenue Service suddenly reversed its administrative interpretation of more than twenty years and announced its intentions in Revenue Ruling 83-3 to deny ministers deductions for real estate taxes and mortgage loan interest if they are paid a housing allowance under Code Section 107. Revenue Ruling 83-3 threatens many ministers of the gospel with higher income taxes and financial hardship.

Although we stated in our letter to you of March 24, 1983 our feeling then that Revenue Ruling 83-3 was "sound in law and analysis", we have changed this view and now rescind that statement in light of the following factors:

1. No change in long standing rulings should be made without a change in legislation or a judicial decision directly on point. Revenue Rulings 62-212 and 62-213 (revoked by Revenue Ruling 83-3) were sound interpretations accepted as being the law for over 20 years. They were issued after the enactment of Code Section 265, which was never intended to apply to minister's housing allowances.

2. The IRS has unfairly singled out ministers with housing allowances for unfavorable tax treatment without also applying its new interpretation to members of the armed services with tax exempt quarters allowances. This discriminatory application of the new IRS interpretation contradicts the advice given by the lawyers for the IRS in GCM 38948, made available through the Freedom of Information Act, to the effect that no distinctions should be made between ministers and members of the armed services having housing or quarters allowances with respect to the deductibility of real estate taxes and interest.

IRS announcement 83-100, which apparently was intended to provide transition relief, has produced a chilling effect on the mobility of ministers by concluding that they now forfeit their right to deduct interest and real estate taxes if they move and sell their present home before 1985.

Therefore, we respectfully request that Revenue Ruling 83-3 be withdrawn until the unsettled issues can be satisfactorily resolved.

In the alternative, we renew our request made in our March 24, 1983 letter that you apply Revenue Ruling 83-3 no earlier than January 1, 1988. Ministers need this time to adjust to the signficant additional tax burden placed on them by Revenue Ruling 83-3, particularly when considering the fact that the increase in Social Security taxes affecting ministers is signficantly larger than the increase for employees. Additionally, that effective date should provide time for the legislature to hold hearings and act on the Parris Bill and avoid the inevitable costly litigation and discriminatory taxation that would otherwise result.

Very truly yours,

Darold H. Morgan
Chairman, Church Alliance Steering Committee
President, Annuity Board of the Southern Baptist Convention
511 North Akard
Dallas, Texas 75201

cc: President Ronald Reagan
Donald T. Regan, Secretary of the Treasury
Representative Stanford Parris (R-VA)
All Church Alliance Members

Exhibit 7

ROBERT A. ROBINSON
PRESIDENT

THE CHURCH PENSION FUND

September 21, 1984

The Honorable Bob Packwood
Chairman, Senate Finance Subcommittee
on Taxation and Debt Management
259 Russell Senate Office Building
Washington, DC 20510

Dear Senator Packwood:

RE: IN SUPPORT OF SENATE BILL 2017
(MINISTERS' PARSONAGE ALLOWANCE)

My letter speaks for the Protestant Episcopal Church in the United States of America, at the direction of the Most Reverend John Maury Allin, DD, The Presiding Bishop and, also, for The Church Pension Fund; The Church Pension Fund and its Affiliates are Official Agencies of the Episcopal Church, duly authorized to establish and administer the Church's clergy pension system, including life, accident and health benefits, for its clergy and their dependents.

I strongly urge the enactment of Senate Bill S.2017, introduced by Senators Helms and Warner because it will correct the serious financial hardship facing all the clergy under IRS Revenue Ruling 83-3. Without S.2017 our Country's clergy lose the substantial protections long provided for them by Congress in Section 107 ("Rental Value of Parsonages") of the Internal Revenue Code. To my own knowledge, petitions by the religious community for a return to the rule of IRC Section 107 have now been firmly rejected by the IRS and it is only a question of time before Revenue Ruling 83-3 deals a final blow to the parsonage allowance which Congress intended and provided for in IRC Section 107.

For some 30 years, including several 1962 Revenue Rulings, the Internal Revenue service duly recognized and enforced IRC Section 107. Indeed, the Internal Revenue Service itself has clearly stated that "...policy considerations favored the allowance of the interest and taxes deduction without offset, since there was evidence indicating that Congress intended section 107 to be liberally construed";* my quotation is from the IRS General Counsel's Memorandum 31939 dated December 22, 1961. Now, alas, Revenue Ruling 83-3 has wiped out all the prior official interpretations and expressly revoked the longstanding Revenue Rulings 62-212 and 62-213 of 1962.

The result is that tens of thousands of ministers whose retirement planning and home finance had been worked out in reliance on these former IRS rulings now face unexpected and unjust financial problems. As just one example, The Episcopal Church is now being told by our own clergy that as a result of this Revenue Ruling 83-3, they now face a difficult new financial problem when they receive a call to a new ministery. Their "new" costs are, I can assure you, sometimes clearly unmanageable and sometimes too risky to assume. In each such instance both the Church and the Clergy suffer.

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*emphasis mine.

800 SECOND AVE (AT 42ND ST) NEW YORK, NY 10017
TELEPHONE [illegible]

Let me further suggest that the IRS has, in Revenue Ruling 83-3, actually usurped the law-making authority of Congress. It is only for Congress, not the IRS, to enact such "legislation."

It is abundantly clear, Senator, that Church and clergy now have no choice but to seek the help of Congress in righting this unfortunate wrong to all ministers. For that reason, and in full agreement, I am writing to request the enactment into law of S.2017. I am marking an information copy for Vice President Bush, for Presiding Bishop Allin and for other concerned churchmen, as well as respectfully asking the support of our own Senator Moynihan, a member of your highly important subcommittee.

Senator Packwood, your own fine record of concern in church-related matters is well-known to the religious community. It is our hope to see the enactment of S.2017 added to that distinguished record. Thank you for any help you can give.

Sincerely,

Robert A. Robinson

RAR:DP
cc: -The Most Rev. John Maury Allin, DD
Presiding Bishop
-The Hon. George Bush, Vice President
-Rt. Rev. Robert H. Cochrane, Bishop of Olympia
-Rt. Rev. James W. Montgomery, Bishop of Chicago
-Rt. Rev. Gerald F. Burrill, Bishop of Chicago (Ret.)
-Rt. Rev. Wilburn C. Campbell, Bishop of West Virginia (Ret.)
-The Hon. Daniel Patrick Moynihan
-Roderick A. DeArment, Esq.- Chief Counsel, Senate Committee on Finance
bcc: WFD, CWC, BP, EJM, HBW, PN, JDD, JEM
Dr. Darold H. Morgan, Gary S. Nash, Esq., James W. Quiggle, Esq.

PETER G. ISAACS
CERTIFIED PUBLIC ACCOUNTANT
22 [illegible] DRIVE
PORT WASHINGTON, NY 11050

TELEPHONE [illegible]
AREA CODE [illegible]

April 25, 1983

Rabbi Joseph B. Glaser
Central Conference of American Rabbis
790 Madison Avenue
New York, NY 10021

Dear Rabbi Glaser:

As a result of our discussion April 15, I am summarizing the results of the clergy tax returns that I prepared for 1982, with the effect that Rev.Rule 83-3 will impose on my clergy clients.

For 1982, I prepared 25 clergy tax returns. The breakdown was as follows:

Number of homeowners	10
Number of renters	12
Number in church owned facilities	3
Total	25

Since Rev. Rule 83-3 only concerns those clergy members who presently own their homes, the amount of real estate taxes and mortgage interest included in itemized deductions averaged $10,505 for the ten homeowners. Based on my understanding of their respective circumstances, five of them will most likely have to sell their homes, one will probably have to sell, two may have to sell in a year or two and two will be able to sustain the loss of the deduction without a real hardship.

Of major concern, however, are eleven of the twelve renters who, in my opinion, may never be in a position to purchase a home under the new guidelines laid out by Rev. Rule 83-3, unless they inherit or their spouse contributes substantially to the gross income in order to sustain the heavy mortgage commitment.

This Rev. Rule concerns so few people that the revenue to be gained by the IRS will not have any impact on the total tax revenues. Retaining the old rule will assist those persons considering the clergy as a career since it is probably the lowest paid profession on average. I urge all efforts be made to reverse Rev. Rule 83-3.

Very truly yours,

Peter G. Isaacs, CPA

Serving His Servants
The Board of Annuities & Relief
THE PRESBYTERIAN CHURCH IN THE UNITED STATES
341 PONCE DE LEON AVENUE, N.E.
ATLANTA, GEORGIA 30365

J. PHILLIPS NOBLE
EXECUTIVE SECRETARY

(404) 873-1531

December 20, 1983

The President
The White House
1600 Pennsylvania Avenue, N. W.
Washington, D. C. 20500

Dear Mr. President:

Please permit me to express my concern over the reinterpretation of Revenue Ruling 83-3 by the Internal Revenue Service. The effect of this is to work a hardship upon clergy since many have bought their houses based on the previous interpretation which had applied for so many years.

It is unrealistic to think that churches will increase ministers' salaries to cover the deficit this has caused. Also, coming at the same time there is a major increase in the self-employment tax, ministers are being suddenly and adversely affected.

Being responsible for the annuity program of the Presbyterian Church, I am in a position to know how broadly our ministers are affected. I urge that Revenue Ruling 83-3 continue to be interpreted as in the past.

Sincerely yours,

J. Phillips Noble

JPN:mp

Copy to - Mr. Gary S. Nash, Secretary
Church Alliance
511 North Akard
Dallas, Texas 75201

AMERICAN BAPTIST CHURCHES OF NEW JERSEY

161 FREEWAY DRIVE EAST, EAST ORANGE, NEW JERSEY 07018
(201) 676-5015

Executive Minister, GEORGE D. YOUNGER

December 29, 1983

The Honorable Donald T. Regan
Treasury Secretary
Herbert Hoover Building
14th Street & Constitution Avenue, NW
Washington, DC 20230

Dear Mr. Regan:

American Baptist ministers in our state have been deeply concerned about Revenue Ruling 83-3 which has taken away the mortgage interest deduction on their housing allowances. We now understand that the Treasury Department is attempting to do the same for military personnel.

We wish that the Internal Revenue Service would abandon efforts to take this away from military and would reconsider its policy of removing the same interest deduction for clergy.

We are certain that many groups related to the military will also be calling to your attention the fact that this will require a great increase in reimbursement for those connected with the armed forces. Local churches also are facing a similar problem with far less resources to pay for it than are available to you through the federal budget.

This has been a most necessary assistance to clergy who are notoriously underpaid. We hope that the same can be continued for military personnel as well as for clergy and other professional church leaders.

Sincerely,

George D. Younger

GDY:pf

Exhibit 8

The Elkhart/Miles project fits perfectly within the committee category of property for which extraordinary levels of subsidy are necessary and fits perfectly as well within the committee intention to exempt those projects which also are underway—in this case going back to July 13, 1982, and to September 19, 1983. It does not fit perfectly in the committee definition of significant expenditures.

To overcome these minor problems, Mr. President, I am proposing that the Miles waste water treatment plant be included specifically in the table of projects listed in section 721(e)(2)(A) on page 903 for exemption from the industrial development bond limitations based on the type of project, the qualifying action, and the date of qualifying action. I believe such an amendment is consistent with the general intent of the Finance Committee with regard to IDB limitations. Mr. President, I understand Senator DOLE's amendment does list the Miles Laboratories project among those exempted from the new IDB limitations. I urge adoption of the amendment, so as to allow and facilitate the continued protection of the water supply in northern Indiana.●

Mr. DOLE. Is there objection to setting it aside?

The PRESIDING OFFICER. Is there objection to setting aside the amendment? Without objection, it is so ordered.

Mr. DOLE. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HEINZ). Without objection, it is so ordered.

Mr. DOLE. Mr. President, it is my understanding that we have a number of amendments now that we can start to work on. First is an amendment by the distinguished Senator from Virginia (Mr. WARNER) and the distinguished Senator from North Carolina (Mr. HELMS). The Senator from Indiana (Mr. QUAYLE) has two amendments to follow that. I am hoping that by that time, Senator BRADLEY, who has three amendments, will be available to offer those amendments.

That should reduce the number of amendments—I might say to the distinguished Senator from Mississippi, there is a whole conference going on on IDB's if he wants to join that conference. I do not think it involves the part he was particularly interested in.

That would give us some progress, and if we could start on those six or seven amendments, we may not have too many left. I am not certain we can finish tonight, but we can try.

AMENDMENT NO. 2948

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I send an amendment to the desk on behalf of myself and the Senator from North Carolina (Mr. HELMS) and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Virginia (Mr. WARNER), for himself, Mr. HELMS, and Mr. EAST, proposes an amendment numbered 2948.

Mr. WARNER. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1137, strike out lines 11 through 23, and insert in lieu thereof the following:

SEC. [illegible]. DEDUCTIONS FOR CERTAIN EXPENSES INCURRED BY A MEMBER OF A UNIFORMED SERVICE, OR BY A MINISTER, WHO RECEIVES A HOUSING OR SUBSISTENCE ALLOWANCE.

(a) IN GENERAL.—Paragraph (1) of section 265 (denying a deduction for payment of certain expenses relating to tax-exempt income) is amended by adding at the end thereof the following sentence: "This section shall not apply with respect to any income of a member of a uniformed service (within the meaning given to such term by section 101(3) of title 37, United States Code) in the form of a subsistence allowance or a quarters or housing allowance, or to income excluded from gross income of the taxpayer under section 107 (relating to rental value of parsonages).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1983.

Mr. WARNER. Mr. President, I am offering this amendment together with my distinguished colleague from North Carolina. It embraces the legislative goals established in S. 2519, a bill that I have introduced to amend the Internal Revenue Code of 1954 in order to protect the compensation now received by two of the most dedicated and worthy professional groups in our society; namely, military personnel and clergy.

Many of my distinguished colleagues fully appreciate that the Treasury Department recently approved, and then delayed until January 1985, implementation of a revenue ruling that would require members of the clergy to reduce their deductions for tax-deductible housing expenses to the extent that they are covered by tax-free allowances. Section 870 of the pending bill effectively delays implementation of this with respect to the clergy until 1986.

I have information to the effect that the Internal Revenue Service is about to issue a proposed ruling that would impose similar requirements on tax-free housing allowances to military personnel.

Revenue rulings dating back to the early sixties had confirmed the deduction procedures now protecting the clergy and the military. My amendment effectively leaves this situation status quo for the military and heads off any possible ruling by IRS.

Mr. President, such rulings will have a disastrous impact on the volunteer careers of those in the clergy and military service. Both groups have historically received modest pay. Traditionally, the Congress has provided nondenominational recognition to religious service in general by providing certain tax advantages to places of worship and clergy. All denominations are well aware of that tax benefit when they calculate the total package of compensation they provide for their ministers. Depriving them of this modest concession will only put a new burden on the already severely strained budgets of many small churches and denominations as they struggle to make up the losses.

Likewise, tax advantages are a very real and intentional part of the total compensation package we provide our military personnel. Indeed, they provide a very efficient and cost-effective means to offset some of the hardship aspects of military service. Military personnel are frequently required to move involuntarily, with no compensation for real estate expenses, a benefit commonly available to employees in the private sector in similar circumstances. The military may be required to relocate to high-cost areas, such as the Washington metropolitan area, where they find little or no Government housing available for them. Their moving expenses are generally not fully reimbursed. They face frequent and prolonged family separations. Their working conditions are frequently hazardous. They live each day knowing that they could be called on with little notice to combat areas where they will be expected to risk their very lives for us.

Tax-free allowances such as the basic allowance for quarters and the variable housing allowance, allow us to address the special housing needs of our military personnel in the most cost-effective manner. With separate allowances, as opposed to basic pay, the needs and even variations in costs from region to region can be targeted. Making such military allowances tax free reduces the amounts Congress must appropriate to provide fairly for the targeted expenses.

Mr. President, the Armed Services Committee of the Senate under the leadership of the distinguished Senator from Mississippi, who is present on the floor, and then under the leadership of the distinguished Senator from Texas, has effectively worked over the past 4 years to raise that total package of compensation and allowances to military personnel so that it is beginning to equate to what they might expect if they chose a career in the private sector. This advancement is dramatically reflected in the quality of individuals coming into the military today and, indeed, in the higher and evergrowing rate of retention of our most valuable military personnel.

To allow the Internal Revenue Service to promulgate a ruling comparable to that which has been applied to the clergy would have a disastrous effect on the progress that this body and, indeed, the House working together have provided in legislative measures in the past 4 years. So we would be moving in a backward direction at the very time when we are trying to hold ground for the military.

Implementation of either ruling could have serious financial consequences for the affected group, especially in high-cost areas. Because the individuals affected often calculate their tax savings in determining the housing they can afford or, in many areas, must do so to be able to buy at all, it is conceivable that these rulings could actually drive some into bankruptcy. Yet, the total gain to the U.S. Treasury, though not calculated yet by the IRS or Treasury Department, is estimated by them to be relatively small.

The more insidious aspect for both groups will be the adverse impact on morale and retention. For the military in particular, this is only one more example of erosion of their benefits. The resulting influence on retention is difficult to quantify but obviously negative.

Two other large groups stand to be adversely impacted by these rulings. Homebuilders in many areas, especially where there are large concentrations of service people, tend to rely greatly on home purchasing by military people. Realtors in those same areas recognize that the steady turnover of service families and the advantages of homeownership lead to a steady base of business for them. Implementation of these proposed IRS rulings will make homeownership much less desirable and perhaps not cost effective when the short-term ownership mandated by frequent moves is considered.

Just as the churches would face the prospect of having to raise the pay of their clergy to offset the loss to total compensation caused by these IRS rulings, so would the Congress have to raise the basic pay of our service people to correct the damage that would be done to their total compensation package. However, raising basic pay to address the compensation loss for some, would create a windfall increase in disposable income for others not affected by the ruling. Indeed, that is why I have described the current system of tax free allowances as efficient and cost-effective tools for addressing the housing needs of all our Armed Forces personnel who do not reside in Government quarters.

Mr. President, the Congress traditionally has recognized that, based on the many sacrifices military people make, it is proper to grant them benefits not available to the civilian populace. The Congress also traditionally has recognized a similar situation for the clergy.

Failure to act now or merely extending the deadline, as section 870 currently does for ministers, will leave these two groups in a form of limbo, wondering when the ax will fall. I urge my colleagues to join me in supporting this legislation to make explicit the intent we have already expressed.

Mr. President, at this time I should like to yield to my distinguished colleague from North Carolina.

The PRESIDING OFFICER (Mr. ANDREWS). The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, I thank the Chair and, of course, I thank my distinguished friend from Virginia.

This is one of those cases, Mr. President, where Senator WARNER and I had virtually the same amendment prepared and ready to go. Upon discovering that he was thinking along the same lines that I have been working, I suggested we combine our efforts and not require the Senate to have to consider essentially the same issue twice.

Mr. President, what we are really talking about is a tax increase, not enacted by the Congress, but ordered by the Internal Revenue Service just by changing the regulations. They are proposing, in the case of ministers and according to the information available to me members of the armed services, to impose a higher tax.

Now, Mr. President, that is the duty of the Congress, not the Internal Revenue Service.

The Warner-Helms amendment would maintain the status quo for ministers and members of the uniformed services, who receive housing allowances, with respect to the deductibility of interest and taxes paid on a personal residence. Current and planned administrative actions by the IRS now threaten the full deductibility of these items, which have been available to ministers and military personnel for years. In substance, this amendment incorporates the provisions of my bill, S. 2017, which was introduced in October, 1983.

Mr. President, in early 1983 the IRS published Revenue Ruling 83-3. In part, this ruling provides that ministers may no longer deduct interest and taxes paid on a personal residence to the extent the amounts expended are allocable to tax-exempt income. It has been scheduled to take effect in stages, with all parts becoming operable by January 1, 1985.

Since the publishing of Revenue Ruling 83-3, the IRS has also indicated that it is likely to make the ruling applicable to military personnel as well as ministers. This prospect has produced severe concern on the part of members of the armed services who see its chief effect on them as, in essence, a pay cut.

Mr. President, it is common practice in the United States for a minister to be given a housing allowance by his church. Under section 107 of the Internal Revenue Code this allowance is excludable from the minister's gross income. Up to now ministers have, fully within the letter of the law, deducted interest and taxes from their income just like other taxpayers. In their case, however, this deduction has an additional benefit because some of their compensation, in the form of a housing allowance, is exempted from gross income by section 107. With Revenue Ruling 83-3, making a new application of section 265, the IRS is attempting to diminish the benefit of section 107 to the clergy.

Mr. President, some would question even whether the IRS should be making, on its own, what appears to be an outright change in substantive law. In any event, this amendment would prevent the IRS from enforcing Revenue Ruling 83-3 and would leave in place the status quo on housing allowance tax deductions for the clergy.

Traditionally, Congress has tried to promote religion by refraining from taxing religious activities and by providing certain tax benefits for those involved in religious activities. We provide these tax benefits because of the longstanding recognition by the American people that Government exists to serve the common good of society. Government is the servant, not the master, of the people. Therefore, it is perfectly proper for the Government to give preferred status to certain institutions in society for the public good. Religion certainly occupies such a place in American society.

Mr. President, with respect to the military, it has long been the practice to provide members of the uniformed services with appropriate housing or with a housing allowance where appropriate housing has been unavailable. The granting of subsistence and housing allowances, separate and apart from actual pay, has been the traditional method for compensating members of the armed services and has been provided for either by regulation or by statute. It is codified today in title 37 of the United States Code.

Allowances paid to our military personnel traditionally have been recognized as being exempt from taxation. Both the courts and the Internal Revenue Service have held that subsistence and housing allowances are not items of income. For many years the Internal Revenue Service's regulations specifically have provided that subsistence and housing allowances need not be included in the income tax returns of members of the uniform services. Up to now, members of the Armed Forces have, fully within the letter of the law, deducted interest and taxes on their personal residences just like other taxpayers.

As with ministers, prior to Revenue Ruling 83-3, members of the uniformed services have received an additional benefit when taking such deductions because some of their compensation, in the form of housing and subsistence allowances, is exempted from gross income. In Revenue Ruling 83-3, the IRS has attempted to diminish the benefit available to the clergy. In internal memoranda and public statements, the IRS has expressed approval of another administrative action which similarly would diminish the benefit available to members of our Armed Forces.

Mr. President, the sole and simple purpose of this amendment is to maintain the status quo that has existed over many years for ministers and military personnel with respect to the tax treatment of benefits arising out of their customary housing allowances.

Mr. President, I urge my colleagues to support this amendment.

Mr. WARNER. Mr. President, by way of corroboration of the position taken by the distinguished Senator from North Carolina and myself, I should like to include in the Record a letter from the Secretary of Defense dated July 12, 1983, addressed to the Secretary of the Treasury, in which the Secretary of Defense endeavors to prevail on the Secretary of the Treasury not to promulgate a regulation comparable to Revenue Ruling 83-3 which would impact on the military.

I ask unanimous consent that the letter be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

The Secretary of Defense,
Washington, D.C., July 12, 1983.

Hon. Donald T. Regan,
Secretary of the Treasury,
Washington, D.C.

Dear Don: I am writing to ask your assistance in a matter of major concern to the men and women of our career military force. In particular, I ask that you ensure that the Internal Revenue Service (IRS) not proceed with a further change in tax policy that would substantially reduce take-home pay for military careerists.

Revenue Ruling 83-3 and its supporting legal opinion (Enclosed) have caused alarm and confusion within the military community. Although that final ruling applied only peripherally to our men and women in uniform, actions based on the legal opinion could work greatly to their detriment.

Specifically, the IRS proposed eliminating the itemized deduction for interest and real estate taxes to the extent that the servicemember receives tax-free military housing allowances (Basic Allowance for Quarters (BAQ) and Variable Housing Allowances (VHA). I am advised that the proposal is being held in abeyance only temporarily. Ostensibly, the reason provided by the IRS for this result was that Revenue Ruling 83-3 was issued to update existing rules and no ruling had ever been issued pertaining to tax-free military housing allowances. However, the reports indicated, and we confirmed, that individual IRS tax auditors were granted the authority, even without a ruling, to deny these interest and real estate tax deductions to military members who use BAQ and VHA to provide homes for themselves.

I am very concerned with the adverse effect on morale, retention, and budgetary actions that may be generated within the career military force as a result of this matter. Military housing allowances represent a long-standing tradition of American military service. The allowances are, as the name implies, provided in lieu of government provided housing. Since 1974 the allowances have been included specifically by statute (37 U.S.C. § 101(25)) as an element of Regular Military Compensation (RMC) along with the "Federal tax advantage accruing to the aforementioned allowances because they are not subject to Federal income tax." RMC, which provides a better total pay picture, is then used in conjunction with other factors in determining changes in rates of pay and allowances required to remain competitive with the civilian sector. Congress is well aware that servicemembers who live in their homes enjoy the benefit of deducting interest and taxes on those homes. We and the Congress closely examine military compensation every year to ensure fairness to the servicemember and the taxpayer. The IRS has long respected this practice. In sum, what may now appear to be an anomaly to some tax professionals, has a clear history of Executive and Legislative approval.

Implementation of a change in IRS policy in this regard will be construed as a further erosion of benefits, represent for many a substantial reduction in net pay, and create a real inequity among members. For instance, where a military member owns a home but does not live in it due to assignment to government or leased quarters, the member would be entitled to the full deduction for interest and real estate taxes on the home he owns. However, if the member were to move back into that home he would lose the deduction to the extent of tax-free allowances received to provide a home. I do not believe that further aggravating the already more arduous life of our uniformed personnel and their families by such an illogical result is in the best interests of the nation.

Even the public discussion of implementing such a proposal has had and will continue to have an adverse effect on morale in the career force. At a time when we are beginning to realize the successes of a total volunteer force and expending large sums of money to recruit and retain quality personnel, I believe it very shortsighted to jeopardize those efforts by applying a new policy that would have inequitable and harmful results. Additionally, allowing innuendos to stand that, although the policy with regard to military personnel and housing allowances has not changed, individual auditors have the authority to deny the deductions, will have similar results. In view of the foregoing, I consider it imperative that this matter promptly be put to rest.

While this problem could be resolved by reallocating a sufficient portion of the DoD budget to offset the effect of the tax increase, there are two obvious shortcomings to such an approach. First, such a reallocation is not solely a matter of Executive discretion. Second, the cost to the Government would significantly exceed the potential savings that would result from eliminating the deduction. Thus, the proposed tax policy change is as harmful to budgetary interests as it is to military morale and retention.

Accordingly, I request a clear statement or ruling be issued to the effect that preexisting policy will not change and any individual actions inconsistent with that policy are inappropriate. I also would hope that before again considering such a volatile change to existing policy, we will be given the opportunity to discuss the matter substantively with you or members of your Department. I am sure you share my view that those who bear the principal burden of the nation's defense should not suffer this reduction in pay without the agreement of the Congress and their Commander-in-Chief.

Sincerely,

Cap.

(Mr. HEINZ assumed the chair.)

Mr. HELMS. Mr. President, if the Senator will yield, who is the author of the letter?

Mr. WARNER. I have a second letter. This letter, I think, would have considerable impact on particularly the manager of the bill. It is dated December 5, 1983. Senator Helms has a copy. What is the signature on that letter?

Mr. HELMS. A very distinguished American from North Carolina. Her name is Elizabeth Hanford Dole.

Mr. WARNER. Her letter is addressed to the Honorable Donald T. Regan, Secretary of the Treasury. It also petitions the Secretary of the Treasury not to promulgate the regulation, on behalf of the men and women of the Coast Guard.

Mr. DOLE. She has not petitioned the chairman of the Finance Committee.

Mr. WARNER. She has authorized the two Senators now standing to make that petition.

Mr. President, I ask unanimous consent to have the letter from Secretary of Transportation Dole printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

The Secretary of Transportation,
Washington, D.C., December 5, 1983.

Hon. Donald T. Regan,
Secretary of the Treasury,
Washington, D.C.

Dear Don: I have been informed that the Internal Revenue Service may be considering a reversal of its long standing policy that military personnel may take the itemized deduction for home mortgage interest and real estate taxes, even though they receive a tax-free Basic Allowance for Quarters and Variable Housing Allowance. Secretary Weinberger has already written you expressing, on behalf of the men and women of our career military force, his objection to such a change in policy.

On behalf of the men and women of our military force who are members of the U.S. Coast Guard, I share the views of Secretary Weinberger on this important matter. While some may perceive the current treatment as an anomaly in the enforcement of the tax laws, it dates from 1925. Our armed forces personnel have come to rely upon it. I therefore ask that the current treatment of these expenses be continued, if not further affirmed, in an appropriate guide to IRS personnel.

Our military people move frequently. The ones who buy homes, therefore, generally have new, high payment mortgages and are often very close to the line separating those who can buy from those who cannot. A reduction in effective pay, such as the one under consideration by the IRS, could result in an inability of some to make current mortgage payments. It would also adversely affect those considering homeownership by lowering the amount of the mortgages for which they qualify. Presumably, this would be a factor in retention of experienced personnel since they are the ones most often in the homeownership category.

The Congress takes into account the tax-free nature of these allowances and the deductability of these expenses in computing military pay. Changing this long standing treatment for military personnel could well prompt the Congress to react with either a legislative repair or an increase in pay to account for this obvious loss in effective pay. Assuming Congress were to act favorably, any gain to the Treasury would be nullified.

Since this initiative of the Internal Revenue Service threatens the morale of our armed forces personnel, I believe that it should receive thorough consideration within the administration before it is implemented.

With best wishes.

Sincerely,

ELIZABETH HANFORD DOLE.

Mr. DOLE. Mr. President, I say to my friends that I became aware of this about 6 weeks ago. I was making a speech downtown somewhere, and a minister approached me afterward and told me about the treatment—in his case, mistreatment, as he described it—and gave me a memo, and I proceeded to take it up with the committee.

What we did was to extend for 1 year, until January 1, 1986, the January 1, 1985, transitional rule applicable to certain ministers in the circumstances we find in this IRS 83-100. At that time, we did not even contemplate that it might be done on the military side.

It seems to me that this is an area we should explore in the committee. I would be willing to direct a letter to the Internal Revenue Service—I think I might be joined by my distinguished colleague Senator LONG—to indicate not to move in this area until we have had a chance for a thoroughgoing hearing in the Senate Finance Committee.

Senator GRASSLEY is chairman of that subcommittee, and I am certain he will cooperate.

I hope that would satisfy the concerns of the Senators.

Mr. WARNER. Mr President, I also should like to draw to the attention of the distinguished managers of the bill the language found in title 37, U.S. Code, in which there is a definition of regular compensation in section 101(25). It reads, after enumerating the various forms of compensation to be received by military personnel:

> . . . Federal tax advantages accruing to aforementioned allowances because they are not subject to Federal income tax.

Further, the standard form utilized by the Department of Defense in informing members of the military service of their compensation package, as directed by the Congress, has specific references to Federal tax advantages. It points out that quarters and separation allowances are not subject to Federal taxes.

A ruling on the military comparable to 83-3 would be directly in contravention of existing law in title 37 and the instructions provided our military personnel.

So this is a matter of enormous and serious consequence to the military, and I am reluctant to have hanging over their heads, even for this extended period, the threat of having part of their compensation subject to Federal tax.

What dates did the distinguished manager have in mind with reference to this? I assume that they will treat the military and the clergy in similar fashion.

Mr. DOLE. If we were certain there would be some action on the part of the military, what we might do is draft an amendment, and each would have the same 1-year extension, so that it would not impose any ruling during that period of time. That would be helpful as a stopgap and would give us until January 1, 1986—the balance of this year and all of next year—to have an appropriate determination on this issue. We might be able to come up with an amendment of that kind. In other words, no change would be effective before January 1, 1986.

Mr. HELMS. Mr. President, I need to consult with the distinguished Senator from Kansas and the distinguished Senator from Virginia. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I ask unanimous consent that the pending amendment be set aside temporarily so that we might take up an amendment by the distinguished Senator from Georgia (Mr. NUNN).

The PRESIDING OFFICER. Is there objection to setting aside the pending amendment of the Senator from Virginia? The Chair hears none, and it is so ordered.

AMENDMENT NO. 2946

Mr. NUNN. Mr. President, I have discussed this amendment with the chairman and the ranking minority member of the Finance Committee, Senator DOLE and Senator LONG. This amendment, that I will send to the desk shortly, strikes out the words "in taxable years beginning after December 31, 1984" and inserts in lieu thereof "after the date of enactment of this act."

This deals with the particular section on private foundations, and the effect of this amendment would be simply to make the effective date of this substantive change making gifts to private foundations the same as the gifts to public foundations. That is already in the bill, and this amendment would simply make the effective date of that the date of enactment rather than January 1, 1985, as is presently in the bill.

I have discussed this with the Senator from Kansas and with the Senator from Louisiana, and it is my hope and belief that they will accept this amendment.

So I send the amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

> The Senator from Georgia (Mr. NUNN) proposes an amendment numbered 2946.
>
> On page 689, line 2 and 3, strike out "in taxable years beginning after December 31, 1984" and insert in lieu thereof "after the date of enactment of this Act".

Mr. NUNN. Mr. President, under current law, the income tax treatment of contributions by an individual to private nonoperating—that is grantmaking—foundations generally is less favorable than the treatment of contributions to public charities and private operating foundations. Contributions of cash and ordinary income property to public charities or private operating foundations are deductible up to 50 percent of the donor's adjusted gross income. For contributions of certain capital gain property, the limitations is 30 percent.

In contrast, contributions to private nonoperating foundations generally are deductible only up to 20 percent of the donor's adjusted gross income. In addition, donors of appreciated property to public charities and private operating foundations may deduct—subject to the 30 percent individual limitation—the full fair market value of the property. On the other hand, the amount deductible for gifts to private nonoperating foundations equals the asset's fair market value reduced by 40 percent of the unrealized appreciation—that is, the amount by which the value exceeds the donor's basis in the property. This discriminatory tax treatment has led to a reduction in donations to such private foundations.

The Senate Finance Committee recognized the inequity of current law and adopted, as part of their budget deficit reduction proposal, an amendment to eliminate tax disincentives for gifts to private nonoperating foundations by making the gifts deductible on the same basis as gifts to other charities. However, the Finance Committee proposal would not be effective until January 1, 1985.

In adopting the amendment to the charitable deduction rules, the Finance Committee acknowledged the substantial role which private nonoperating foundations play in private philanthropy. To carry out their charitable activities, such foundations need to have a solid financial resource base, and these resources have traditionally come from donations. There is no sound policy reason for continuing to deny equitable tax treatment for contributions to private nonoperating foundations until January 1, 1985. Therefore, to insure that needed resources are available to foundations, the elimination of tax disincentives for contributions to private nonoperating foundations should be effective upon enactment of the Finance Committee legislation.

Mr. President, again I emphasize my colleagues may be interested that this makes no substantive change in the committee bill. It is simply a date change so that the effective section of this dealing with private foundations and deductibility of gifts to private foundations would be on the date of enactment rather than January 1, 1985.

I hope the committee will accept and the Senate will accept this amendment.

Mr. METZENBAUM. Mr. President, will the Senator from Georgia yield?

The PRESIDING OFFICER. Is the Senator from Ohio seeking recognition?

Mr. METZENBAUM. Yes.

Mr. NUNN. I yield.

Mr. METZENBAUM. Will the Senator from Georgia be good enough to explain why it is important that the change be effective as of the date of enactment rather than January 1, 1985?

Mr. NUNN. It is obvious that there are people who would like to go ahead make sales, and what this relates to is the realized gain or nonrealized gain on gifts to foundations.

If you make a gift now of $20 million to a public charity, it is my understanding that there is no realized gain on that but if you make a gift to a private foundation, there is a realized taxable event. The tax is paid not on all of it—I believe it is on 60 percent—there already is a recognition.

So what the committee has done is to make a gift to a private foundation the same as gift to a public charity, and what this amendment does is make the effective date on enactment.

The obvious reason is that there are some people who have contacted me from my State of Georgia who would like to go ahead and make a sale this year and give away a good bit of money to a private foundation.

Mr. METZENBAUM. I am not quite clear why the sale aspect comes into it, since my understanding is that the provision we are talking about has to do with changing the proprietary or the deductibility of a gift to a private foundation to make it similar to a gift to a public foundation, and I do not understand the sales aspect.

Mr. NUNN. It does not have to be a sale. It is just a gift. If I used the word "sale," it should be the word "gift." A gift itself is the recognizable event in terms of the gift to a private foundation under the current law. That is being changed in the Finance Committee bill.

Mr. METZENBAUM. What would the tax impact be in 1984? What would be the impact upon the revenue.

Mr. NUNN. I do not know whether the committee has an estimate on that because in the particular case of the people who contacted me I am not sure there would be any impact at all because obviously anyone who wanted to wait—if this passes as it exists now—wanted to wait in order to take advantage of this Finance Committee provision would simply wait until after January 1, 1985. So I do not know how anyone can read the minds of whether the people are going to go ahead and make the gifts this year or whether they are not.

There is nothing retroactive about this amendment.

I defer to the Senator from Kansas.

Mr. DOLE. Mr. President, we understand that the joint committee estimate is it would be less than $5 million. I will get the exact figure.

Mr. METZENBAUM. Less than $5 million?

Mr. DOLE. Yes.

Mr. President, I understand this amendment has been cleared by the Senator from Louisiana and I have no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Georgia.

The amendment (No. 2946) was agreed to.

AMENDMENT NO. [illegible]

The PRESIDING OFFICER. The question now recurs on the amendment of the Senator from Virginia.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I inquire of the distinguished Senator from Kansas if he is near completion of the drafting of the amendment or would he like to set it aside?

Mr. DOLE. I advise the Senator from North Carolina that the drafters are hard at work. They are now in the process of finalizing the change, and it may be a moment or two.

Mr. HELMS. Why do we not set it aside and proceed with another amendment if it will take too long?

Mr. WARNER. Mr. President, will the Senator yield?

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina has the floor, as I understand it, and he yields to the Senator from Virginia for a question.

Mr. HELMS. Yes.

Mr. WARNER. Mr. President, the question is this. Will the Senator permit the distinguished Senator from Georgia (Mr. MATTINGLY) to join us as a cosponsor on this amendment?

Mr. HELMS. Certainly.

Mr. WARNER. We jointly propound that in the form of a unanimous-consent request.

Mr. HELMS. Mr. President, I ask unanimous consent that the Senator from Georgia (Mr. MATTINGLY) be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, it is my understanding that this amendment was going to be withdrawn. Am I now mistaken about that? Is it the intent to go forward with this amendment?

Mr. DOLE. Not with that amendment, I say to the Senator from Ohio.

Both Senator HELMS and Senator WARNER discussed this with me, and I suggested that the amendment be presented, that instead of seeking some permanent moratorium or not doing anything "until Congress acts" that we treat the military the same way the committee treated ministers who have a different application.

What we did in that case was to provide a 1-year extension. What we would say, in effect, is that before the IRS issues any rulings on this issue it cannot be done prior to January 1, 1986, and in the interim I promise both Senators that we could have a joint hearing with the Armed Services Committee and the Finance Committee prior to October 1. When we took up this matter in the committee, the only ones we felt involved were certain ministers. Now we are told that the same effort will be made insofar as military personnel are concerned, and I suggest that since we gave ministers a 1-year delay, we would do the same for the military.

That is the amendment that is now being drafted.

Mr. METZENBAUM. Is this the issue that has to do with the fact that ministers and now military would be receiving tax-free allowances for their residences and then be permitted to deduct the interest and taxes in connection with those same residences?

Mr. DOLE. Yes, essentially that is it, and this has been an ongoing dispute, I might add. I did have a memo about it about a month ago. I learned about it at a meeting where a minister got up and asked me the question. It has been an off-and-on dispute with the IRS as far as ministers are concerned for the past 15 to 20 to 30 years.

I am not certain the military question has ever been raised. But the Senator is substantially correct.

Mr. METZENBAUM. And it is the plan of the Finance Committee to have the ruling postponed for how long a period of time?

Mr. DOLE. One year. And during that time that will give us the balance of this year and next year to take some action. Obviously, some would not want to do anything. They do not want to change the status quo. I am suggesting we ought to hear it. We ought to hear from the IRS, from Treasury, and we ought to hear from the military. I have been told the Secretary of Transportation protests this because of the Coast Guard. So we have a number of people to hear from in this area. That is what I propose.

Mr. METZENBAUM. Is the chairman of the Finance Committee indicating that the Finance Committee does intend to take some action with respect to this matter and not merely provide a continued delay as far as the issue is concerned?

I must confess, I have some difficulty in understanding how you get tax-free income and then you get tax deductions for your mortgage and for your interest payments on your mortgage on your taxes. But I am not prepared to debate the merits of the issue, although I am frank to say that it seems that the IRS has a good deal of merit on its side.

Mr. DOLE. I do not quarrel with that. But my view is we cannot resolve every issue on the floor. Rather than have some permanent moratorium, it seems to me the better part of wisdom was to say, "OK, let's defer any implementation of this ruling until January 1, 1986. Let's have some hearings."

I am not certain where the votes would be after we have the hearings. But we do intend to address the issue. I guess you could justify it if you were a minister or in the service because of the low-pay ministers and military personnel receive. I think that is where the Senators are coming from.

Mr. METZENBAUM. The Senator from Ohio is pretty apprehensive because I think the same kind of delay was provided for previously in connection with the generations skipping tax. Now I am aware of the fact that in this bill the generations skipping tax is being provided for through a repeal. So I am just a little bit edgy.

Mr. DOLE. Again, it was by a vote in the committee. I cannot guarantee the Senator from Ohio who may prevail in the committee.

But I am suggesting that I think both the Senator from North Carolina and the Senator from Virginia felt strongly that we ought to decide right now that there should never be any tax involved. My view was we ought to take a look at it and provide a 1-year extension. And that is what we did in the committee insofar as some ministers were concerned. This would be the same on the military.

Mr. METZENBAUM. I thank the Senator.

Mr. DOLE. Is that substantially correct?

Mr. WARNER. Mr. President, that is an accurate representation of the understanding of the Senator from North Carolina and myself.

Mr. DOLE. I have not cleared this with the distinguished Senator from Louisiana. But we did on the ministers. That was committee action. I would suggest maybe the Senators would like to discuss it with the Senator from Louisiana while we are drafting this.

We would be more than pleased to discuss this matter with the distinguished Senator from Louisiana.

Mr. WARNER. Mr. President, in response to the inquiry by the distinguished Senator from Ohio, I would like to trace the history of the taxation of our U.S. military.

Mr. METZENBAUM. Will the Senator from Virginia yield for just 1 minute?

Mr. WARNER. Of course.

Mr. METZENBAUM. I was going to suggest to the Senator from Virginia, let well enough alone. I am calmed down.

Mr. WARNER. I recognize that the distinguished Senator from Ohio is calmed down, but occasionally it is like a volcano, it comes back again at the most unexpected time.

Mr. President, again, the compromise amendment on behalf of Mr. HELMS and myself is simply to make it eminently clear to the Internal Revenue Service that the present disposition of the Congress is not to let a Revenue ruling comparable to that of 83-3 be promulgated between now and January 1986 with respect to the military.

We are taking this action because we are privy to the internal working papers of the IRS and correspondence between various Cabinet officers who are likewise concerned.

Going back to the historical origins of taxation of the U.S. military, the Federal income tax advantage accruing to members of the Armed Forces derives from the nontaxable status of subsistence, quarters, and certain housing allowances—basic allowance for subsistence, or BAS, basic allowance for quarters, or BAQ, and variable and station housing allowances, or VHA and SHA, respectively—and Congress determination that those allowances should be treated as part of regular military compensation, along with basic pay. The origin of the tax advantage enjoyed by military personnel can be traced to a 1925 decision of the U.S. Court of Claims—arguably concurred in by Congress ever since—that held that neither the provision of certain items in kind to Armed Forces personnel, nor the payment of an allowance in commutation thereof, was subject to Federal income taxation under the precursor of the present-day Internal Revenue Code. With the subsequent extension of the rationale underlying this decision both to other items provided in kind and to allowances paid in lieu thereof, the tax advantage is appropriately seen as a more or less incidental byproduct of the way Congress has chosen to pay military personnel—namely, the pay plus nontaxable allowances system of military compensation.

So there is a long legislative history regarding the manner in which Congress has devised the military pay system. The action being taken by the Senator from North Carolina, and myself, is to preserve this status quo hopefully in perpetuity. But out of deference to the distinguished managers of the bill, we are willing to accept for the moment the compromise tendered.

Mr. DOLE. I thank the Senator from Virginia.

Mr. MATTINGLY. Mr. President, I support the amendment of the distinguished Senators from Virginia and North Carolina. In my opinion, it is absolutely vital to pass this amendment if we are to prevent what, in essency, would be a paycut for many of our military personnel, including Active, Guard and Reserve personnel.

Currently, the basic allowance for quarters and the so-called variable housing allowance are accorded tax exempt status by the Internal Revenue Service as part of the military compensation formula. Such a tax advantage is an important element in computing the total levels of military pay and benefits. And thus, it is an important recruiting and morale boosting instrument.

Congress has made a specific effort, Mr. President, to increase such allowances at a faster rate than military pay itself. These actions were undertaken with the specific purpose of, among other things, reducing future retirement costs. By placing certain benefits outside the specific pay structure, retirement pay, which is based on service pay, will be reduced.

So I believe it to be unwise, Mr. President, to allow the IRS to thwart the expressed intention of the Congress.

I know that the Warner—Helms amendment would impact groups and individuals other than those in the military. I am pleased that it does and support its application in those areas.

As chairman of the Military construction Appropriation Subcommittee, I am acutely aware of the enormous costs involved in building adequate family housing units for our servicemen and women; $3.1 billion has been rquested this year for the family housing accounts in the Milcon budget—30 percent of the total Milcon request is devoted to family housing.

I urge the adoption of the amendment.

Mr. DOLE. Mr. President, before I suggest the absence of a quorum, Senator QUAYLE was here earlier and we understand there are a couple of amendments that he has that at least we can take up. Senator BRADLEY has three amendments. Senator BRADLEY is here. Is the Senator prepared to proceed with his three amendments?

Mr. BRADLEY. I am prepared to proceed with one amendment.

Mr. DOLE. Does the Senator have two additional amendments?

Mr. BRADLEY. I do have. I would expect at some point to be ready to offer those.

Mr. DOLE. I wonder if we might proceed then. We are trying to work something out to see whether we can take the first one. But is there one we are certain we cannot take that we can bring up?

Mr. BRADLEY. I came over to the floor to find out what the situation was. I would like to talk to the Senator and see if we can not take some time in the future to deal with it.

Mr. DOLE. Like 8 p.m.?

Mr. BRADLEY. Probably not at 8 o'clock, but maybe shortly thereafter.

Mr. DOLE. Mr. President, let me read off the amendments that we know of. We have amendments by Senator Quayle, Senator DeConcini, Senator Boschwitz, Senator Dodd—and Senator Dodd's has been raised in case we have not been able to reach any agreement—Senator Pryor; Senator Kennedy, add consortia of educational institutions as eligible recipients of equipment contributions; Senator Ford, and that will be a distilled spirits amendment; Senator Dole and Senator Exon and Senator Durenberger; Senator Andrews, a family farm amendment; Senator Bradley, tax on leaded gasoline; Senator Humphrey, FUTA summer camp exemption; Senator Kennedy, strike medicare savings; Senator Specter, modify sale-leaseback, plus additional amendments; Senator Bentsen, increase maternal and child block grants if there is an offset; Senator Quayle has another amendment on medicare; Senator Heinz has two amendments; Senator Boschwitz and Senator Dixon on real estate depreciation modifications; Senator Bradley; Senator D'Amato on pension contributions for policemen and firefighters; Senator Murkowski and Senator Stevens, Alaska longevity bonus program; Senator Cochran, guaranteed divestment contracts; Senator Grassley, farm depreciation and soil conservation; Senator Bradley, earned income tax credit indexing; Senator Tsongas, deferred rent—we are addressing that in another amendment; Senator Domenici on photovoltaic cells; Senator D'Amato on social security taxable base; and Senator Boschwitz on tax-exempt status Firefighters Association.

Is Senator Boschwitz in a position to take up the container amendment at this time?

Mr. BOSCHWITZ. Mr. President, we are negotiating on that. I think the firefighters one will not be in contention at all. If the Senator would give us some more time, we would appreciate it.

Mr. DOLE. If we could dispose of—disposition does not mean approval—but if we could dispose of the firefighters and the container amendments, and I know the Senator has another major amendment, we would like to dispose of some of the less major amendments in the next hour. If we cannot conclude then, I suggest we go home tonight at 6 o'clock, because we were here last night until midnight. There is no use staying until midnight tomorrow and all day tomorrow. So it appears rather obvious we are not going to conclude this evening.

Mr. BOSCHWITZ. Mr. President, I think we will be ready within the hour. We are still in the process of doing some rewriting on the firefighters amendment and we also have to clear it on the other side. It is not a very controversial amendment, nor is the container amendment very controversial. As a result, I do not think there will be a problem.

Mr. DOLE. Mr. President, I do not see Senator Quayle, but he was here earlier prepared to take up his amendment. Somehow he escaped.

Let me suggest the absence of a quorum, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I ask unanimous consent that the pending amendments be temporarily laid aside.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The amendments are temporarily laid aside.

Mr. DOLE. Mr. President, I would suggest that the Senator from Indiana be recognized.

The PRESIDING OFFICER. The Senator from Indiana.

AMENDMENT NO. 2947

(Purpose: To allow dislocated workers to withdraw contributions to Individual Retirement Accounts)

Mr. QUAYLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Indiana (Mr. Quayle) proposes an amendment numbered 2947.

Mr. QUAYLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment add the following new section:

SPECIAL PROVISIONS FOR DISLOCATED WORKERS WITH RESPECT TO INDIVIDUAL RETIREMENT ACCOUNTS

Sec.   . (a) Notwithstanding any other provision of the Internal Revenue Code of 1954, a dislocated worker having documentation issued by the Secretary under this section, may withdraw contributions to, and interest on, an individual retirement account established in accordance with the provisions of section 408 of the Internal Revenue Code of 1954, without incurring the tax penalty under section 408(f) of the Internal Revenue Code of 1954.

(b) For purposes of subsection (a), an individual is a dislocated worker if such individual—

(1) has at least twenty quarters of coverage under title II of the Social Security Act; and

(2) has exhausted all rights to regular compensation under State law in his most recent benefit year.

(c) The Secretary shall provide for the issuance of documentation to individuals identified as dislocated workers.

Mr. QUAYLE. Mr. President, I have discussed this amendment with both the chairman of the Finance Committee and the ranking member. This amendment is rather direct and does one specific thing. That is, it allows long-term unemployed to withdraw contributions from individual retirement accounts without a tax penalty.

Mr. President, Members are aware of the problem of the long-term unemployed, particularly those who come from States which have had an intolerably high unemployment rate, particularly long-term unemployment rate, for too long a period of time. There is in this country a new category of structurally unemployed individuals.

Structurally unemployed, Mr. President, historically has been defined as the hardcore, the economically disadvantaged individual, primarily the inner-city youth.

During the last 4 or 5 years, particularly with the number of plants closing, the transition that we are going through, the idea that we are going from a large manufacturing-industrial society to one that is geared more toward services and high technology, so to speak, the information era, we now have a new category of the structurally unemployed, and that is the dislocated worker.

The dislocated worker is one who is identified as having no real chance of going back to his or her place of employment.

What we have tried to encourage throughout the creation of the Job Training Partnership Act and the special attention that we pay to the dislocated worker in title III of that act, is to encourage dislocated workers that have no real chance of going back to their place of employment to seek training and retraining.

Mr. President, we believe that this amendment, which would allow the withdrawal of an IRA account of a dislocated worker, would certainly be an incentive to take that money out of the account. It has to be used for the express purpose of training, retraining, or education.

I believe, as we have to wrestle with this problem, that the Tax Code is the perfectly proper place to try to provide some incentives to see the dislocated worker use his or her money, and also to seek training and retraining.

Retraining is something I think you are going to see to be far more prevalent today than it has been in the past, and the fact that we will have individuals who will have three or four different types of jobs in a lifetime.

I believe the chairman of the committee will support me on this amendment.

Mr. DOLE. Mr. President, I understand the amendment has been cleared. We have no objection to the amendment. I think it is a good amendment and am prepared to accept it.

The **PRESIDING OFFICER.** Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2947) was agreed to.

Mr. DOLE. Mr. President, I understand the Senator from Indiana has another amendment.

The **PRESIDING OFFICER.** The Chair will advise that the amendment of the Senator from Virginia is still pending as is the amendment of the Senator from Kansas.

Mr. DOLE. Mr. President, if the Senator from Indiana is prepared to proceed, I will ask that we temporarily lay aside those amendments.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. DOLE. Mr. President, while we are waiting for the next amendment, I would announce that at least the tax portion equivalent of this bill passed the House tonight by a vote of 318 to 97. That bill was debated in the House since about 10 o'clock this morning. It had a majority vote of Republicans and a majority vote of Democrats. That is some indication that we are serious about at least the tax portion of deficit reduction.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER** (Mr. Jepsen). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The Senator from Kansas.

Mr. DOLE. Mr. President, the pending amendment is the amendment of the distinguished Senator from North Carolina and the distinguished Senator from Virginia; is that correct?

The **PRESIDING OFFICER.** That is one of the two pending amendments.

Mr. DOLE. As I understand it, if he would withdraw that amendment, he could send an amendment to the desk. Is that correct?

The **PRESIDING OFFICER.** It would take unanimous consent to set aside the pending amendment of the Senator from Kansas.

Mr. DOLE. Mr. President, I ask unanimous consent that that be set aside also.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. DOLE. What I would like to do is withdraw the amendment.

The **PRESIDING OFFICER.** The Senator from North Carolina.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. DOLE. Yes, I yield.

Mr. HELMS. Mr. President, on behalf of the Senator from Virginia, I ask unanimous consent to withdraw the pending amendment.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment (No. 2945) was withdrawn.

AMENDMENT NO. 2948

Mr. HELMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER.** The clerk will state the amendment.

The bill clerk read as follows:

The Senator from North Carolina (Mr. Helms), for himself and Mr. Warner, Mr. Mattingly, and Mr. East, proposes an amendment numbered 2948.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

On page 1127, strike out lines 11 through 23, and insert in lieu thereof the following:

SEC. 216. ALLOCATION OF EXPENSES TO PARSONAGE AND HOUSING ALLOWANCES.

With respect to any mortgage interest or real property tax costs paid or incurred before January 1, 1986, by any minister of the gospel or any member of a uniformed service (within the meaning given to such term by section 101(3) of title 37, United States Code) the application of section 265(1) of the Internal Revenue Code of 1954 to such costs or to a subsistence offering or a quarters as housing allowance shall be determined without regard to Revenue Ruling 83-3 (and without regard to any other regulation, ruling, or decision reaching the same result, or a result similar to, the result set forth in such Revenue Ruling.

Mr. HELMS. Mr. President, I want to make it clear that in addition to Senator Warner and this Senator from North Carolina, we have cosponsorship of this amendment by the distinguished Senator from Georgia (Mr. Mattingly) and the equally able Senator from North Carolina (Mr. East).

Mr. DOLE. Mr. President, we have discussed this amendment. I think it is a good resolution of the situation and it has been cleared all the way around. I have agreed to have hearings with the Armed Services Committee not later than October 1 this year. So we accept the amendment.

The **PRESIDING OFFICER** (Mr. Gorton). The question is on agreeing to the amendment.

The amendment (No. 2948) was agreed to.

Mr. HELMS. I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I ask unanimous consent that we lay aside again the amendment of the Senator from Kansas. I understand the Senator from Alaska (Mr. Murkowski) has an amendment which he will explain.

The **PRESIDING OFFICER.** Without objection it is so ordered. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I thank the Senator from Kansas.

AMENDMENT NO. 2949

(Purpose: To express the sense of the Senate regarding limitations and termination of qualified veterans' mortgage bonds)

Mr. MURKOWSKI. Mr. President, I send a perfecting amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER.** The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. Murkowski) for himself and Mr. Cranston, Mr. Kasten, Mr. Hatfield, Mr. Wilson, and Mr. Stevens, proposes an amendment numbered 2949.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

On page 906 of the matter proposed to be inserted, between lines 3 and 4, insert the following:

SEC. 722. SENSE OF THE SENATE REGARDING QUALIFIED VETERANS' MORTGAGE BONDS.

It is the sense of the Senate that—

(1) no termination date be imposed on the issuance of qualified veterans' mortgage bonds (within the meaning of section 103A (c)(3) of the Internal Revenue Code of 1954), and

(2) no qualified veterans' mortgage bonds be taken into account in applying section 103A of such Code.

Mr. MURKOWSKI. Mr. President, my amendment is brief and straightforward. The veterans' mortgage bond program is an important program for enabling veterans to obtain housing at reasonable interest rates. It is a program that has worked well in a number of States, and could well be enacted as a program in any State wishing to benefit veterans residing in their State. This is a program that has received broad national support. It has been endorsed by the National Governor's Association, the National Association of Counties, the United States Conference of Mayors, and other national groups.

A veterans' mortgage program was created in my home State in November 1982. Since that time, over 3,500 Alaska veterans have been able to receive housing loans that have allowed their families to buy into a housing market where they may have previously been unable to qualify. The availability of this mortgage loan program for veterans has provided a boost to the housing market, and thus the local economy. These bonding programs have received consistent and overwhelming approval in all States where this issue appears on the ballot. I should note that State-run veterans mortgage programs are not a new phenomena. In fact, the State of California has administered a veterans mortgage program that has helped thousands of veterans for over 61 years.

Exhibit 9

STATISTICS ON MINISTERS' SALARIES

Denomination	1 Number Full-time Ministers	2 Average Salary including Housing Allowance	3 Aggregate Salaries Col. 1 X Col. 2
Advent Christian General Conference	40	$ 14,927	$ 597,080
African Methodist Episcopal Church	1,300	10,000	13,000,000
African Methodist Episcopal Zion Church	*	*	
American Baptist Churches	4,049	20,281	82,117,769
American Lutheran Church	4,931	24,338	120,010,678
Lutheran Church in America	5,297	24,142	127,880,174
Associate Reformed Presbyterian Church	127	21,821	2,771,267
Christian Church (Disciples of Christ)	3,415	20,946	71,530,590
Christian Reformed Church	1,004	28,600	28,714,400
Church of the Brethren	570	15,800	9,006,000
Church of God (Anderson, Indiana)	2,286	17,500	40,005,000
Church of the Nazarene	6,117	13,497	82,561,149
Churches of God in North America	365	18,000	6,570,000
Episcopal Church	8,312	23,811	197,917,032
Evangelical Congregational Church	114	19,490	2,221,860
Evangelical Covenant Church of America	489	22,058	10,786,362
Evangelical Lutheran Church of Canada	249	20,597	5,128,653
Free Will Baptists	*	*	
International Pentecostal Holiness Church	*	*	
Lutheran Church - Missouri Synod	5,539	22,397	124,056,983
Mennonite Conferences	354	19,240	6,810,960
Presbyterian Church in America	*	*	
Presbyterian Church (USA)			
Board of Annuities and Relief	3,477	21,249	73,882,773
Board of Pensions	11,130	22,505	250,480,650
Reformed Church in America	962	26,611	25,599,782
Reorganized Church of Jesus Christ of Latter Day Saints	190	31,500	5,985,000
Seventh-day Adventist Church	3,888	22,500	87,480,000
Southern Baptist Convention	26,815	17,447	467,841,305
Unitarian Universalist Association	680	23,385	15,901,800
United Church of Christ	4,551	21,381	97,304,931
United Methodist Church	22,938	19,416	445,364,208
United Synagogue of America	437	35,270	15,412,990
Wesleyan Church	1,191	12,942	15,413,922
Totals	120,817	$611,651	$2,432,353,318

Weighted average salary: total column 3 ÷ total column 1 = $20,133

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* Not available

ROBERT A. ROBINSON
PRESIDENT

THE CHURCH PENSION FUND

October 1, 1984

Roderick A. DeArment, Esq., Chief Counsel
Senate Committee on Finance
Room SD 219, Dirksen Senate Office Building
Washington, DC 20510

Re: Senate Bill S. 2017 & House Bill HR 4548

Dear Mr. DeArment:

This letter and the attached letter dated September 27, 1984 from the Reverend Michael M. Davis, Rector of All Saints' Church in San Benito, Texas, are being submitted to the Senate Finance Subcommittee on Finance and Debt Management under the official rules for the submission of written statements as testimony in support of Senate Bill S. 2017.

The letter from Father Davis speaks for itself and provides an authentic example of many priests, ministers and rabbis throughout this Country whose income taxes are being drastically increased by an IRS Revenue Ruling issued in 1983. This Ruling (83-3) either totally ignores or it erases the official determination by the IRS in 1955, confirmed by the IRS General Counsel in 1961, that in granting tax-exempt status to parsonage allowances in 1954 it was not the intention of Congress to simultaneously offset this tax benefit by denying to the clergy the right given to all taxpayers to deduct mortgage interest and taxes paid on their homes.

Copies of this letter are being sent directly to all members of the Senate Finance Committee to personally express the deep appreciation of the clergy for the action taken by the Committee and by the full Senate, in twice voting in 1984 for similar remedial legislation, which unfortunately failed in two Senate/House Conference Committees apparently because the House of Representatives never gave its members an opportunity to vote on similar bills pending in the House Ways and Means Committee.

We are especially grateful that, earlier this year, your Committee's bi-partisan response to the clergy's needs resulted in legislation delaying the imposition of IRS Revenue Ruling 83-3 until 1986 for some clergy, but the unjust burdens placed on the clergy will continue until the action of the IRS in ignoring the intent of Congress is reversed by Congress.

Sincerely,

Robert A. Robinson

Robert A. Robinson

cc: The Honorable George Bush
Vice President

The Reverend Michael M. Davis
Rector, All Saints' Church
San Benito, Texas

800 SECOND AVE. (AT 42 ND ST.) NEW YORK, NY 10017
TELEPHONE (212) 661-6700

community council of greater dallas

September 25, 1984

Senator Bob Packwood
Chairman, Senate Finance Subcommittee
  on Taxation and Debt Management
Room 145
Russell Office Building
Washington, D.C. 20510

Dear Senator Packwood:

I would like for this letter to be included as a written statement in lieu of testimony on behalf of S.337 which would make permanent the Charitable Contributions Law, which allows nonitemizers to deduct their charitable contributions above the line.

I would also like this written statement to be printed in the record of the hearing which is scheduled in the Senate Finance Subcommittee on Taxation and Debt Management on Wednesday, September 26, 1984 at 9:30 a.m., in room SD-215 of the Dirksen Senate Office Building.

I believe that the Charitable Contributions Law, which allows nonitemizers to deduct their charitable contributions above the line, should be made permanent as provided for in Senate Bill 337.

Listed below are five reasons why S.337 should be enacted so that the Charitable Contributions Law will become permanent.

When persons who do not itemize their deductions are allowed to itemize their charitable contributions, they are motivated to give to charitable causes and they give more than they would otherwise give.

A growing number of American citizens, who care about the plight of needy persons, recognize that government spending cannot meet all the needs. Cutbacks in federal spending in the charitable field make it more important than ever that private donations to charity be encouraged and increased.

1900 pacific building • suite 1725
dallas • texas • 75201
(214) 741-5851

the planning affiliate of the
United Way

Increased funding for charities would enable this sector to increase and improve the services it currently provides.

While generous and wealthy individuals have supported charities in good measure, this bill would encourage more donors to participate and would broaden the base of donors to include persons of average means.

As you know, the 1981 Tax Act reduced the income and estate tax rates, and the deduction for nonitemizers would help offset any decline in giving resulting from that change.

Thank you for your support of Senate Bill 337.

Sincerely,

Thomas R. Delatour

Thomas R. Delatour, Manager
United Way Service

TRD:lg

EASTER
SEAL
SOCIETY
OF OREGON

5757 S.W. MACADAM AVENUE / PORTLAND, OREGON 97201 / (503) 228 5108

BRUCE M. WHITAKER
Executive Director

September 18, 1984

Roderick A. DeArment, Chief Counsel
Committee on Finance
Room S D 219
Dirksen Senate Office Building
Washington, D.C. 20510

Re: S.337 Hearing
September 26, 1984

Dear Friends:

We would like to express our strongest support for S.337 which would make permanent the charitable contribution deduction for individuals who do not itemize their income tax.

We believe that this bill expresses an enlightened public policy. By encouraging broad based support for voluntary programs in the public interest, it will encourage and expand privately funded activities which will ultimately result in a savings of public revenues.

Contributions by the private sector to meet public needs are as old as our nation. As an example of the importance of the voluntary sector, the Easter Seal Society of Oregon currently provides major services for almost 5,000 children and adults in this state annually. Services include therapy, medical equipment, residential camping, special recreation programs and a wide variety of other assistance. Nationally, the Easter Seal Society serves over 750,00 individuals each year. Since Easter Seals is only one of a great many charities, the public benefit from the non-profit sector is apparent. Demands for these services would likely fall upon public revenues if they were not provided through the non-profit sector.

While most people make charitable donations primarily from philanthropic motives, we know that tax incentives are very important in encouraging this support. We believe that the amount of charitable contributions generated by such incentives far exceed the amount of revenue which the government waives in allowing such deductions. The actual investment in meeting the public need therefore exceeds the amount which would otherwise be collected in taxes.

The charitable contributions deduction for non-itemizers is the best of all possible tax incentives. In a time when the complexity and fairness of our tax code is being widely questioned, this deduction can be understood and used by the average taxpayer. It is equitable in its impact, sensible in its construction, and clearly in the public interest.

We strongly urge your support of S.337.

Sincerely,

Bruce Whitaker

Bruce Whitaker
Executive Director

BW/jf

Partners in Healing
IOWA METHODIST HEALTH FOUNDATION
1405 Woodland Avenue • Des Moines, Iowa 50309 • Phone 515-283-6304

September 19, 1984

Mr. DeArmant, Chief Counsel
Committee on Finance
Room SD-219,
Dirkson Senate Office Bldg.,
Washington, D.C. 20510

RE: S.F. 337 Charitable
Contributions Law
hearing, Sept. 26, 1984

Dear Mr. DeArmant:

I would like to submit a statement in support of continuation of the Charitable Contributions Law which has been presented to the Senate Finance Subcommittee on Taxation and Debt Management under S.F. 337 by Senator Bob Packwood.

Having spent most of my professional life in the charitable area working with philanthropy to support higher education and hospitals, I am very conscious of the role that philanthropy has played in making many of these kinds of not-for-profit organizations available to the community. I have been particularly concerned as we have seen more and more emphasis being placed on local community assuming responsibility for many of the things that government had taken over in the consciousness awaking area and the social concerns aspects.

If the local communities are going to have the opportunity of really picking up the support of those charitable organizations that are important to their wellbeing they are going to need every bit of help they can receive. Congress cannot help people to be motivated to give; that comes out of one's understanding of "loving your neighbor." However, Congress can encourage that by laws which it enacts, such as the Charitable Contributions Law.

We have watched over the past number of years as more and more people have used the short form and have not had to really itemize and think about contributions that they make. I believe that the enactment of that law several years ago was a reversal of the trend which helped people realize that they did have an obligation and needed to look at what they were doing for their community.

I hope that the Congress will see fit to extend, permanently, the Charitable Contributions Law beyond the expiration date in 1987.

Sincerely,

(Mr.) Carryl R. Ziettlow, FNAHD
President

CRZ:pg

MILLIKIN UNIVERSITY
DECATUR, ILLINOIS
62522

OFFICE OF
THE PRESIDENT

September 17, 1984

Mr. Roderick A. DeArment
Chief Counsel
Committee on Finance
Room SD-219
Dirksen Senate Office Building
Washington, D. C. 20510

Dear Mr. DeArment:

Enclosed are five copies of a written statement representing Millikin University's position on Senate bill (S.337), sponsored by Senator Packwood.

Please include this statement in the printed record of the hearing on the bill, scheduled for October 10, 1984.

Sincerely,

J Roger Miller

J. Roger Miller
President

Enclosures

MILLIKIN UNIVERSITY, Decatur, Illinois

Statement on Senate Bill (S.337)

Millikin University joins with other educational and charitable organizations in urging adoption of Senate bill (S.337).

The merits of this proposed legislation include the following:

1. The charitable deduction for nonitemizers is a great incentive to private philanthropy and it enables taxpayers to make larger gifts than they would otherwise.
2. A permanent charitable deduction for nonitemizers would help provide a dependable source of much-needed funds on a continuing basis.
3. The charitable deduction broadens the base of charitable giving to include all taxpayers -- not just the wealthy. History shows that regular small gifts sometimes lead to future major philanthropy when donors' circumstances permit.

National Audubon Society
950 THIRD AVENUE, NEW YORK, N.Y. 10022 (212) 832-3200 CABLE: NATAUDUBON

September 19, 1984

Mr. Roderick A. DeArment
Chief Counsel
Committee on Finance
Room SD - 219
Dirksen Senate Office Building
Washington, D.C. 20510

RE: SENATE BILL S. 337 (Hearing date: 9/26/84)

Dear Mr. DeArment:

I am writing to strongly urge the Senate Finance Subcommittee on Taxation and Debt Management to support passage of Senate Bill S. 337 which would make permanent the charitable contributions law which allows non-itemizers to deduct charitable contributions above the line.

The charitable contributions law is extremely important because it encourages larger charitable gifts and because it reduces the gap between itemizers and non-itemizers. There appears to be growing suspicion and resentment on the part of non-itemizers toward those who itemize, largely because they view itemized deductions as a tax dodge for the wealthy and, by extension, deductible items themselves are viewed with suspicion. This growing suspicion and the widening gap between the wealthy and the middle class is inherently bad for our society. Unless the same benefits available to the wealthy are extended to the middle class, there will certainly be a continuing erosion of voluntary compliance with the tax laws. There is already a growing body of evidence that one of the primary reasons for the burgeoning underground economy is the fact that the majority of people view the tax code as unfair and skewed to benefit the wealthy.

I firmly believe that the American people support charitable organizations from a sense of idealism and altruism that has no equivalent in any other society and that tax benefits are not a primary motivation. However, there is no question that tax benefits do have an effect on the amount that people can afford to contribute.

There are estimates that the total dollars contributed to charity would sharply decline and continue to spiral downward in the absence of an income tax charitable deduction.

With regard to the charitable deduction itself, there cannot be any question as to its need for existence. Eleemosynary organizations play a vital and dynamic role in every aspect of American life -- our spiritual lives, our intellectual, social, cultural, aesthetic and recreational lives. Non-profit organizations contribute immeasurably to our dynamism and creativity as a people. It would be impossible to imagine American life without this essential component which does indeed touch the life of every single American.

In the absence of a vital non-profit sector, who would fill in the gap? It is certainly not feasible or desirable for government to be the sole purveyor of these services. Not only would the originality, creativity, diversity and quality of all these services suffer under government management, but the cost would be astronomical, and there would be no room for organizations that promote views contrary to the prevailing political powers.

I, therefore, submit that the subsidy which is granted eleemosynary institutions in the form of tax deductions for donors provides far more benefit for our society than if those dollars were paid in taxes. The tax system has always served as an instrument of social policy -- encouraging certain behavior and discouraging others. I cannot think of a more beneficial policy than to encourage charitable giving through the charitable income tax deduction.

Since the charitable deduction is available for the wealthy, the only question is whether or not the middle class will be permitted the same benefit. I strongly urge the committee to favorably report S. 337 for all of the above reasons.

I am enclosing five copies of this statement and am requesting that it be included in the printed record of the hearing.

Thank you for your consideration.

Sincerely,

Wayne S. Mones
Director, Planned Giving

WSM:ok
Enclosures

CC: Senator Daniel Patrick Moynihan

Rollins College

The President

September 25, 1984

Roderick A. DeArment, Chief Counsel
Committee on Finance
Room SD-219
Dirksen Senate Office Building
Washington, D.C. 20510

RE: CHARITABLE CONTRIBUTIONS LAW -- Senate Bill S.337, sponsored by
Senator Bob Packwood

Dear Mr. DeArment:

I feel strongly that the Charitable Contributions Law, which allows non-itemizers to deduct their charitable contributions above the line, should be made permanent, rather than expiring in 1987. Educational institutions like Rollins College, which I serve as president, depend upon private support. For some years now we have sought to expand the base beyond a few wealthy donors to encompass a larger segment of our alumni. Significant numbers of them are in the younger classes, and because of income levels are unlikely to itemize. We also have substantial numbers of loyal older graduates who, now that their mortgages are paid off and they are living on retirement incomes, probably do not itemize. The help of these individuals is badly needed if we are to raise our participation in annual giving beyond the present 32% of our graduates. The Charitable Contributions Law provides important encouragement to them to make charitable contributions to Rollins and other eleemosynary institutions.

I also support Senator Packwood's bill for the following reasons:

1) A charitable deduction for non-itemizers is an incentive to charitable giving and enables taxpayers to give more than they would otherwise contribute;

2) With the cutbacks in federal spending, a permanent deduction for non-itemizers would provide a dependable source of funds on a continuing basis;

3) A permanent deduction will enable charities to provide increased and better services to the public;

Winter Park, Florida 32789 • Telephone (305) 646-2120

4) The deduction broadens the base for charitable contributions, involving more lower income donors in private philanthropy;

5) The deduction for non-itemizers helps offset any decline in giving resulting from the decrease in income and estate tax rates under the 1981 Tax Act.

I understand that written statements in lieu of testimony will be in the printed record of the hearing and request that mine be included.

Sincerely,

Thaddeus Seymour
President
ROLLINS COLLEGE
/cr

cc: Senator Bob Packwood
Senator Paula Hawkins
Senator Lawton Chiles

JARL WAHLSTROM
GENERAL

WILLIAM BOOTH
FOUNDER

GEORGE NELTING
TERRITORIAL COMMANDER

Major Gary L. Herndon
DIVISIONAL COMMANDER

THE SALVATION ARMY
(Founded in 1865)
TELEPHONE (308) 532-2038
600 NORTH WALNUT STREET
NORTH PLATTE, NEBRASKA
69101

MAJOR DAVID ZAHN
COMMANDING OFFICER

Mr. Roderick A. DeArment,
Chief Counsel,
Committee on Finance,
Room SD-219
Dirksen Senate Office Building
Washington, D.C. 20510

September 19, 1984

RE: Permanent Charitable Deduction
for Nonitemizers s. 337, 9/26/84

Mr. DeArment:

Private voluntary organizations such as The Salvation Army receive a very large percentage of their operating funds from middle class people. Many of these people work a single job and file short form tax returns.

The result of disallowing nonitemizers to deduct their charitable contributions would be a reduction of funding for organizations such as The Salvation Army. This would mean curtailment of programs such as our mass-feeding site here in North Platte.

I believe that these programs are needed today and the private charitable organizations operating them deliver excellent quality services at a fiscal cost below that of those in the public sector.

My hope is that our nation will continue the support of private voluntary organizations such as The Salvation Army by passage of Senate bill S. 337 sponsered by Sen. Bob Packwood.

Thank you for your help in this matter.

God bless you!

Sincerely,

David E. Zahn, Major

David E. Zahn, Major
COMMANDING OFFICER

"CHRIST IS ALL"

Written Statement To Be Included In The Records of Subcommittee on Hearing on Senate Bill S.2017

Sedro Woolley Seventh-Day Adventist Church
1325 TOWNSHIP SEDRO-WOOLLEY, WASHINGTON 98284
PHONE (206) 855-1694

Sept. 26, 1984

Committee On Finance

Dear Committee Member
and Senator,

I would urge you to vote yes on Senate Bill S.2017 which repeals Revenue Ruling 83-3 for all time. I believe ministers should be able to take a deduction for mortgage interest and real estate taxes in addition to their housing allowance. This Revenue Ruling 83-3 will mean I as a minister on a comparitively small income, will

1. be facing a tax increase of up to $1,000 and more each year.
2. be penalized for accepting a position in a new location where I thus purchased a home after Jan. 3, 1983.
3. have to send my wife out to work just to pay my taxes.
4. have housing costs that will eat up half of my monthly income.

Again, I urge you to vote yes for Senate Bill S. 2017 and thus repeal Revenue Ruling 83-3 for all time.

Thank you.

Sincerely,

Pastor Leon E Ringering

Pastor Leon E. Ringering

September 20, 1984

Mr. Roderick A. DeArment
Chief Council
Committee on Finance
Room FD-219
Dirksen Senate Office Building
Washington,D.C. 20510

Dear Mr. DeArment:

I write to you today regarding Senate Bill S337 which is before the Senate Finance Subcommittee on Taxation and Debt Management and is scheduled for hearing on Wednesday September 26, 1984.

My understanding is that the Subcommittee will be considering the issue of the expiration of the charitable contribution above the line deduction for non-itemizers, currently slated to occur in 1987. From our point of view it would be of material assistance to charitable organizations everywhere and colleges and universities in particular to make the Charitable Contributions Law (CCL) a permanent part of the Treasury regulations.

As with many charitable organizations, Western Michigan University has substantially stepped up its efforts to raise much needed funds from the private sector to assist the university in its continued growth and development and to at least partially offset the reductions in both state and federal funding for public higher institutions.

While it is true that major gifts to colleges and universities have not been drastically influenced by recent changes in the Federal Tax regulations, I find that younger contributors especially, and smaller annual contributors in general, do make charitable giving decisions based in part on current treasury regulations. Since most of these taxpayers do not itemize on their return, having the ability to continue the above the line charitable contribution deduction can be a meaningful assistance to us in our efforts to raise funds from alumni and other interested individuals. If, as current law provides, the CCL expires in 1987 I believe this will be a major detriment to fund raising efforts from individuals who do not itemize on their taxes.

WMU [illegible]
President [illegible]
Executive Office
383-49[illegible]

[illegible] Fund
3[illegible] 1864

Corporate [illegible]
383-[illegible]

Financial & Estate [illegible]
383-497[illegible]

Alumni & De[illegible] Research
[illegible]

Mr. Roderick A. DeArment
September 20, 1984
Page two

One of the major ways an organization such as ours is able to secure larger individual gifts is by seeking contributions from those who have made a series of smaller gifts over several years. These smaller donors, and especially those that contribute regularly, become increasingly interested and involved in the on-going work of the university. That involvement and interest frequently translates into larger contributions as time goes on. This is especially true of younger people who begin contributing during a time when they do not itemize and then continue to contribute (and in many cases increase their contribution) in later years when their income is higher and they are more likely to make use of the more liberal deduction for those who do itemize.

As charitable organizations throughout the country go about the business of securing their financial futures through private gifts, I believe it is critical that continuity of tax legislation go hand in hand with our effort. I would strongly urge the Subcommittee to make the CCL provisions permanent in nature and would ask that careful consideration be given to finding other ways within the treasury regulation drafting process to enhance opportunities for the deduction of legitimate charitable gifts.

Thank you for providing this opportunity for in-put and I will look forward to the Subcommittee's decision with a great deal of interest.

Sincerely,

Paul M. C. Knudstrup, Director
Planned Giving Services
WMU Foundation

mg

STATEMENT OF

THE AMERICAN PROTESTANT HEALTH ASSOCIATION

SUBMITTED TO

SUBCOMMITTEE ON

TAXATION AND DEBT

MANAGEMENT

OF THE

COMMITTEE ON FINANCE

UNITED STATES SENATE

HEARING ON

S. 337 CHARITABLE CONTRIBUTIONS, AND

S. 2017 DEDUCTION FOR HOUSING EXPENSES OF MINISTERS AND MEMBERS OF THE UNIFORMED SERVICES

SEPTEMBER 26, 1984

Frederick H. Graefe
Perito, Duerk & Pinco
1140 Connecticut Avenue, N.W.
Suite 400
Washington, D.C. 20036
(202) 659-8300
Washington Counsel to the
APHA

Charles D. Phillips, Ed. D.
President
American Protestant Health
Association
1701 East Woodfield Road
Suite 311
Schaumburg, Illinois 60195
(312) 843-2701

STATEMENT OF AMERICAN PROTESTANT HEALTH ASSOCIATION CONCERNING CHARITABLE CONTRIBUTIONS AND MINISTERS AND MILITARY HOUSING DEDUCTIONS

Mr. Chairman and Members of the Subcommittee, the American Protestant Health Association (APHA) appreciates this opportunity to present its views on the issues of Charitable Contributions and Ministers and Military Housing Deductions. We commend the Subcommittee for holding hearings to examine these important issues in depth.

The APHA is comprised of 300 institutions, agencies and nursing homes across the country, and with its 2000 personal members in its division, the College of Chaplains. The APHA has hospitals in 38 States, totalling 60,000 beds. Its hospitals are located in both rural communities and the inner cities.

For the reasons stated in the testimony of Mr. Brian O'Connell, the President of Independent Sector, concerning S. 337, the APHA strongly supports the permanent continuation of the charitable contributions legislation, enacted as part of the Economic Recovery Tax Act of 1981, Public Law No. 93-34, which authorized for the first time nonitemizers to deduct their contributions to charitable organizations. The promotion of voluntary giving is necessary and vital to insure the continuation of all charitable organizations, but especially voluntary community hospitals which rely on charitable contributions to enable them to offer the highest quality care to all patients irrespective of their ability to pay. The continuation of charity care by community hospitals is becoming a national crisis. The Subcommittee on Health of the Committee on Finance is examining this issue in depth as well as is the Department of Health and Human Services. Accordingly, the APHA strongly urges the Congress to make permanent the charitable contributions law allowing nonitemizers the opportunity to deduct their contributions to charitable organizations.

The APHA also wishes to comment on S. 2017 which would amend the Internal Revenue Code of 1954 with respect to deductions for the payment of certain expenses by ministers and members of the uniformed services who receive subsistence and housing allowances. The APHA supported the extension in the Deficit Reduction Act of 1984, Public Law No. 98-369, of the transitional rule for ministers contained in Revenue Ruling 83-3 through January 1, 1986, in order to allow the Congress the opportunity to examine and determine tax policy.

Whatever the tax policy that is determined by the Congress, it should be fair and equitable and simple to administer. We recognize that there are equities on both sides of the question as to whether ministers and members of the uniformed services should be allowed to take deductions for mortgage interest and real estate taxes on a residence to the extent such expenditures are allocable to tax-free housing allowances received by them.

The APHA believes the Congress should take the time necessary to study and resolve this issue consistent with our national policy and heritage. We also believe, however, that the policy determined by the Congress should apply equally to the clergy as well as to members of the uniformed services.

In conclusion, the APHA believes that the issue of deductions for housing expenses for the clergy and members of the uniformed services is an issue that should be determined by the Congress, after careful and thoughtful deliberation. The APHA also strongly supports the permanent continuation of charitable contributions for nonitemizers.

We appreciate this opportunity to present our views on these issues, and APHA stands ready as a resource to work with the Congress and the Department of the Treasury in the months ahead to develop a repository of knowledge and data on these issues.

College of New Rochelle

Office of College Advancement

October 2, 1984

Roderick A. DeArment, Chief Counsel
Committee on Finance
Room SD-219
Dirksen Senate Office Building
Washington, D.C. 20510

RE: Senate Bill(S.337) concerning permanent
Charitable Contribution Law for non-
itemizers
Hearing date: September 26, 1984
Written comments due by October 10, 1984

Dear Mr. DeArment:

On behalf of the College of New Rochelle, New Rochelle, New York 10801-2308, I would like to support the passage of Senate Bill (S-337) for the following reasons:

(1) A charitable deduction for nonitemizers is an incentive to charitable giving and enables taxpayers to give more than they would otherwise give;

(2) With the cutbacks in federal spending, a permanent deduction for nonitemizers would provide a dependable source of funds on a continuing basis;

(3) A permanent deduction will enable charities to provide increased and better services to the public;

(4) The deduction broadens the base for charitable contributions, enabling charities to look to donors other than just the wealthy for support; and

(5) The deduction for nonitemizers helps offset any decline in giving resulting from the decrease in income and estate tax rates under the 1981 Tax Act.

As a fund raising administrator in an independent College for thirty years, I am very aware of the need of external support for annual gifts. I urge passage of Senate bill (S.337) concerning the permanent establishment of the Charitable Contributions Law for Nonitemizers.

Sincerely,

Sarah N. Leonard
Sarah Niles Leonard
Special Assistant for College Advancement

cc: Senator Daniel Patrick Moynihan
cc: Senator Alfonse M. D'Amato

College of New Rochelle, New Rochelle, New York 10801 (914) 632 5300

INTERNATIONAL MINISTRIES • ABC/USA
[illegible]
[illegible]

October 1, 1984

Roderick A. DeArment, Chief Counsel
Committee on Finance
Room SD-219
Dirksen Senate Office Building
Washington, DC 20510

Subject: Permanent Charitable Deduction for Nonitemizers

Regarding: The Charitable Contribution Law, and Senate bill ($337) sponsored by Senator Bob Packwood

Dear Sir:

I understand the Senate Finance Subcommittee on Taxation and Debt Management is currently having hearings about the Charitable Contribution Law. Since I am unable to attend this hearing, I would like to submit this statement for your consideration.

The American Baptist Foreign Mission Society was founded in 1814 and since that time we have been involved in mission work in various parts of the world. Today, we are involved in projects in Central America, Europe, Africa and in Asia. Though part of our work would be considered evangelistic, a fair amount of our budget goes for medical, educational and development projects. We share in the development of some of the less developed nations of our world such as, Bangladesh, Burma, India, Nepal, Costa Rica, El Salvador, Haiti, Nicaragua and Zaire.

As an illustration of our involvement, this past year we helped support 130 medical facilities which treated over 837,000 patients. We provide several teachers and other support to non-theological schools. We have trained agricultural development staff in Haiti, Thailand and Zaire operating experimental and training stations, working to improve food production and nutrition.

To carry out our program in 1983 we had expenditures which totalled over 8.6 million dollars. This money comes from churches and individuals who want to support our mission program. Because of the nature of our constituency, most of the contributions we receive come from people of low and middle income. These are people who normally do not itemize and take advantage of the deductions allowed under the IRS rules.

The Charitable Contribution Law provides for a special deduction for people who do not itemize. Thus, this bill should directly help people from the low and middle income level who usually do not itemize. The law encourages people to reduce their taxes by showing their deductions. By 1986 these non-itemizers will be able to deduct 100% of their charitable contributions and still take the standard deduction. I understand the law then has a "sunset" provision that provides this deduction will end after December 31, 1986.

Our government has always encouraged religious and charitable contributions because of the social benefit of organizations involved in such programs. There has been an increased emphasis for voluntary and public service in recent years and the current Charitable Contribution Law is one way that government has encouraged participation in charitable causes. I commend the Senate for providing the bill as we now have it allowing for the poor and middle class to show their contributions over and above the standard deductions without having to itemize.

Because our program depends on the contributions from thousands of people most of them of modest income, I strongly urge you to extend the provision of the Charitable Contribution Law beyond 1986.

Thank you and with our best wishes to your committee and its work.

Sincerely yours,

Ronald G. Taylor
Executive Director

RGT/pal

Statement

of

Goodwill Industries of America, Inc.
9200 Wisconsin Avenue
Bethesda, Maryland 20814-3896

on

S.337

Legislation to Make Permanent the Charitable Deduction for Non-Itemizers

Subcommittee on Taxation and Debt Management
Committee on Finance
U.S. Senate

September 26, 1984

Goodwill Industries of America, Inc. (GIA) is a national, nonprofit organization of 176 rehabilitation facilities in North America with 44 affiliates in 31 countries outside North America. These community-based independent organizations provide a wide variety of rehabilitation services, including vocational evaluation, job training, employment, counseling, job seeking skills, and placement for more than 65,000 disabled individuals.

We welcome this opportunity to submit our views on S.337, legislation to make permanent the tax deduction for charitable contributions available to taxpayers who do not itemize.

In 1981, GIA was among the many supporters of the provision in the Economic Recovery Tax Act which provided a phase-in of the maximum amount of charitable deduction for nonitemizers. We believe enactment of this legislation was clearly in line with the Administration's and Congress' intent to reduce the burden of any excessive government spending for social services. The rationale behind the legislation was that it would be an incentive for a greater percentage of the American public to contribute to voluntary organizations, thereby enabling the private, nonprofit sector to play a stronger role in servicing the needs of the poor, disabled and other disadvantaged groups. Furthermore, Congress realized that the benefits to private voluntary organizations and middle income taxpayers would exceed significantly the estimated loss in tax revenues from such a measure.

Testimony presented to the Subcommittee by Brian O'Connell, president of Independent Sector, and Dr. Charles Clotfelter, an economist at Duke University, confirms that the intent of this provision is being realized. In 1983, charitable contributions by upper income taxpayers declined significantly. This loss, however, was more than offset by a dramatic increase in contributions by lower income groups. In effect, this provision has served to "democratize" charitable giving by removing the distinction between upper and lower income taxpayers.

While not basically a fund raising organization, Goodwill is particularly aware of the significance of public contributions to the success of nonprofit service organizations, since our operations are greatly dependent upon public giving rather than governmental support. We are especially dependent upon charitable donations of used goods. More than half (56.1 percent in 1983) of Goodwill's earned revenue, which funds the continuation and expansion of rehabilitation services for disabled individuals, comes from retail marketing and salvage sales of these donated goods.

Additionally, direct public cash contributions provide an important source of capital revenue to Goodwill Industries. In 1981 all U.S. Goodwills received a total of $25.5 million in direct charitable support from the public. By 1983, the second year in which nonitemizers could deduct a maximum $25.00 for their charitable gifts, total public support to Goodwills increased 31 percent, even though most of the nation suffered from a stagnant economy. This substantial boost in public support may, in part, be attributed to the ability of nonitemizers to deduct a portion of their charitable contributions. We expect that as more and more nonitemizing taxpayers are made aware of the opportunity to take a charitable contribution deduction, our donations will increase.

Without these charitable gifts, Goodwill Industries simply would cease to exist. In 1983, local Goodwills provided services to 66,720 disabled individuals, placing 8,180 individuals into competitive employment. In addition, more than 32,000 handicapped persons were employed in Goodwill retail stores, production facilities, and service contract programs. These individuals earned in excess of $144.3 million in salaries and wages while paying an estimated $21.6 million in federal, state and local taxes.

Because of the valuable services to society provided by Goodwill Industries and other charitable organizations, GIA strongly supports governmental policies which encourage individuals, regardless of their income level, to contribute to charitable groups.

We are aware that in this era of budgetary restraint Congress has an obligation to scrutinize all legislation for its impact on the federal deficit. Clearly, enactment of S.337 would reduce federal revenues. The Department of Treasury estimates this loss would total $1.7 billion annually. However, statistics provided by Dr. Clotfelter demonstrate that enactment of this legislation would generate additional charitable gifts of at least $3.8 billion. It is Congress' responsibility to determine whether this "cost" is acceptable given the increased benefits to society which would be provided by charitable organizations. We believe all available evidence supports enactment of S.337.

For Congress to allow this provision to expire in 1986 would deprive voluntary organizations of one of the important means necessary to strengthen their contribution to society. Without increased private contributions, charitable organizations will be unable to sustain, much less expand, their service activities. Equally important, such action could signal private organizations that the federal government is not really interested in promoting private sector initiatives.

Accordingly, Goodwill Industries of America urges the Subcommittee to favorably report S.337 at the earliest opportunity.

THE LUTHERAN CHURCH-MISSOURI SYNOD

International Center
1333 South Kirkwood Road
Saint Louis, Missouri 63122-7295
314 965-9000 Telex 43-4452 Lutheran STL

Office of the President

October 8, 1984

Mr. Roderick A. DeArment, Chief Counsel
Committee on Finance
Room SD-219
Dirksen Senate Office Building
Washington, D.C. 20510

Re: Ministers' Deductions for
Mortgage Interest and
Real Estate Taxes
Hearing: September 26, 1984

Dear Sir:

As President of the 2,700,000 members of The Lutheran Church--Missouri Synod, I wish to share our opinion regarding Senate Bill S.2017, which would repeal 83-3 for all time.

It is my considered opinion that the special exemption for ministers included in that bill is justified. I firmly believe it is justified for the following reasons:

1) Ministers have made and continue to make a positive contribution to the well-being of the nation. This fact has been recognized historically, leading to and including the special classification granted to ministers during periods of international conflict in which our country was involved.

2) Ministers of religion, as a whole, continue to receive a relatively modest income. Consequently, the additional burden placed upon this group of people, assuming that Senate Bill S.2017 was not enacted, would be considerable, while at the same time it would not yield a significant increase in tax revenue. On the other hand, enactment of it would undoubtedly enable them to devote their energies more fully to achievement of that well-being of our nation referred to above.

3) In the past, similar provisions have been made for both military personnel and ministers of religion in the matter of housing. These provisions were considered to be equitable in view of the specific, though possibly differing, services provided by each group. In the final analysis, both were considered necessary for the well-being of our nation. I continue to believe that this emphasis is and will continue to be of major importance.

In view of the above and speaking for The Lutheran Church--Missouri Synod, I urge the passage of Senate Bill S.2017.

Sincerely,

Ralph A. Bohlman

Ralph A. Bohlmann
President

RAB/ph

PRISON FELLOWSHIP
POST OFFICE BOX 17500
WASHINGTON, D. C. 20041
703-478-0100

October 9, 1984

Roderick A. DeArment, Esquire
General Counsel
Committee on Finance
Room SD-219 Dirksen Office Building
United States Senate
Washington, D. C. 20510

Dear Mr. DeArment,

Attached, please find five copies of my written statement in lieu of testimony supporting Senate bill S. 337. This bill was the subject of a hearing before the Subcommittee on Taxation and Debt Management of the Senate Finance Committee on September 26, 1984

Thank you for arranging for the inclusion of this statement in the record of the hearing.

Respectfully yours,

Gordon D. Loux

Gordon D. Loux
Executive Vice President

Enclosures

GDL/kmj

"A bruised reed He will not break..." *Isaiah 42:3*

STATEMENT OF GORDON D. LOUX, EXECUTIVE VICE PRESIDENT OF PRISON FELLOWSHIP, IN SUPPORT OF S. 337 BEFORE THE SUBMITTEE ON TAXATION AND DEBT MANAGEMENT OF THE SENATE FINANCE COMMITTEE IN HEARING ON SEPTEMBER 25, 1984

Mister Chairman, Senator Danforth, Senator Chaffee, Senator Wallop, Senator Armstrong, Senator Matsunaga, Senator Benson, Senator Baucus, and Senator Long, I appreciate this opportunity to submit for the record of this hearing a statement on behalf of Prison Fellowship strongly supporting the provisions of S. 337 which would make permanent a charitable deduction "above-the-line" for individual taxpayers who do not itemize deductions.

BACKGROUND ON PRISON FELLOWSHIP

Prison Fellowship, of which I serve as Executive Vice President, is a publicly-supported interdenominational Christian ministry to prisoners, ex-offenders, and their families founded in 1976. Its purpose is to effect change in the criminal justice system, to present Jesus Christ as the alternative to hopelessness, to reduce crime, and to challenge the Christian Church to translate faith into action by bringing hope and justice to the prisons.

After eight years of work, Prison Fellowship has a network of more than 19,000 volunteers organized in 189 local "Care Committees," and a staff of 170. The work of Prison Fellowship can now be seen in more than 285 penal institutions in our nation. Our organization regularly conducts Christian seminars to assist in personal and spiritual development, both in prisons and in community settings. Over 52,000 inmates have attended Prison Fellowship seminars.

Prison Fellowship supports alternative sentencing such as restitution and community service for nonviolent offenders. The ministry sponsors frequent community service projects across the nation which bring furloughed inmates into communities to work for the underprivileged. This summer, Prison Fellowship commenced a six-month program of community service involving state inmates, at the request of the Arizona Department of Corrections.

While the spiritual and personal growth of the 52,000 prisoners which have participated in Prison Fellowship seminars is difficult to measure, thousands have chosen to help others through prison or other ministries after release. Studies show that the number of Prison Fellowship graduates returning to prison is significantly lower than others released with the same parole board ratings.

SOME POTENTIAL BENEFITS OF S. 337

More than 60,000 people, from every walk of life, financially support the ministry of Prison Fellowship. Contributions from individuals comprised over 87% of our $6.9 million budget in 1983.

Like most nonprofit organizations supported by public donations, a substantial number of our donors do not itemize deductions on their federal income tax returns. A recent donor base study commissioned by Prison Fellowship and four major publicly-supported religious nonprofit organizations revealed that, on average, 65% of individual contributors earn less than $25,000 per year.

This same study noted that, while a vast majority of our donors are motivated to give by factors other than monetary ones, approximately 11% listed tax benefits as a determinative motive for their gifts. Passage of the above-the-line deduction for charitable gifts would provide a major giving incentive to this significant portion of our donor base, as well as encouragement to those more intent upon laying up heavenly treasure. Such a deduction for nonitemizers would, quite simply, enable a major part of our donor base to give more than they would otherwise give.

A permanent deduction for nonitemizers would also broaden the base for contributions to this ministry. Over 62% of our individual contributors give to six or more charities. We therefore depend upon many individuals who are already spreading their charitable dollars around considerably.

Often, donors on limited incomes write us to express great regret and embarrassment when they must reduce or curtail their giving because of unexpected jumps in other living costs. Many of these friends make gifts that are indeed sacrificial. Passage of this bill would reward and encourage such frugality and selflessness.

A permanent deduction for nonitemizers will provide Prison Fellowship, and other charities, with a basis for planning an increased level of services based upon the confidence that such an incentive to our donors, coupled with effective accomplishment of our ministry goals, will result in greater giving.

I respectfully urge you to examine the many benefits--to the giving people of this nation, to the charitable sector, and to prisoners--which would flow from enactment of the provisions contained in S. 337. Thank you.

YORK COLLEGE OF PENNSYLVANIA
Country Club Road, York, Pennsylvania 17405 **Telephone (717) 846-7788**

President
Robert V. Iosue

October 3, 1984

Roderick A. DeArment, Chief Counsel
Committee on Finance
Room SD-219
Dirksen Senate Office Building
Washington, DC 20510

Re: Senate Bill S. 337

Dear Mr. DeArment:

On behalf of York College of Pennsylvania, I wish to voice our support of Senate Bill 337.

This bill, sponsored by Senator Robert Packwood, would allow non-itemizing tax payers to continue to deduct charitable contributions above the line. It is important because it provides incentives for all American taxpayers to financially support charitable organizations. The continued vitality of our nation's colleges and universities is critically dependent upon voluntary donations, and tax incentives encourage financial support.

I respectfully urge the Committee to endorse Senate Bill 337 which will help preserve our philanthropic approach to serving much of our public needs.

Sincerely,

Robert V. Iosue
President

dd

National Association of Home Builders

15th and M Streets, N.W., Washington, D.C. 20005
Telex 89-2600 (202) 822-0400 (800) 368-5242

Peter D. Herder
1984 President

October 2, 1984

The Honorable Bob Packwood, Chairman
Subcommittee on Taxation and Debt Management
Committee on Finance
U.S. Senate
Washington, D.C. 20510

Dear Mr. Chairman:

On behalf of the 126,000 members of the National Association of Home Builders, I would like to respecfully submit our comments in support of S. 2017, a bill allowing military personnel to continue to deduct mortgage interest on their homes.

As you are aware, the Internal Revenue Service has made public their intent to include military personnel under Revenue Ruling 83-3 which limits the mortgage interest deduction. While this rule has not actually been invoked, the uncertainty surrounding it will discourage military personnel from purchasing a home.

If the IRS acts negatively, military personnel would lose the deduction up to the amount of their housing allowance which in many instances would wipe out the deduction. About one-half million of the two million receiving a housing allowance are homeowners.

In this regard, it is estimated that the action contemplated by the IRS would result in a net tax increase of between $800 to $3,000, costing 4 percent to 6 percent of take home pay and increasing housing costs as much as $250 a month. In addition, the dream of homeownership could be denied to our military personnel who are so ably defending our country.

Attached is a copy of a resolution passed by the NAHB Board of Directors last January supporting continuation of full mortgage interest deductibility for active duty military personnel. Thank you for allowing us to present our views.

Sincerely,

Peter D. Herder

Peter D. Herder
President

Date: January 19, 1984
City: Houston, Texas

NAHB Resolution

Title: Mortgage Interest Deduction Allowed with Military Allowance
Original Sponsor: Metropolitan Omaha Builders Association

WHEREAS, active duty military personnel comprise a large segment of the new home buying public; and

WHEREAS, active duty military personnel are entitled to the same fundamental benefits of homeownership as other American citizens; and

WHEREAS, the Internal Revenue Service intends to extend to military personnel the mortgage interest deduction limitation imposed by IRS Ruling 83-3, which currently applies only to clergymen; and

WHEREAS, the tax ruling would, in effect, require military personnel to subtract their housing allowances from their annual mortgage interest payments in determining their interest deduction for the year; and

WHEREAS, this would adversely affect the ability of the average military family to purchase a new or existing home,

NOW, THEREFORE, BE IT RESOLVED that the National Association of Home Builders supports the continuation of full mortgage interest deductibility for active duty military personnel.